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Monday
November 23, 1992

Briefings on How To Use the Federal Register
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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

ALBUQUERQUE, NM

WHEN: December 8, at 9:00 am
WHERE: University of New Mexico
Continuing Education Bldg., Room I
1634 University Blvd., NE
Albuquerque, NM
RESERVATIONS: Julie Stone
505-768-3532

WASHINGTON, DC

WHEN: November 30, at 9:00 am
WHERE: Office of the Federal Register
Seventh Floor Conference Room
800 North Capitol Street, NW, Washington, DC
RESERVATIONS: 202-523-4534

Contents

Federal Register

Vol. 57, No. 226

Monday, November 23, 1992

Separate Parts In This Issue

Part II
National Archives and Records Administration, Office of the Federal Register, 55030

Part III
Environmental Protection Agency, 55038

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law Numbers and the Federal Register Table of Contents is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue

3 CFR
Administrative Orders:
Memorandum:
October 22, 1992 54895

7 CFR
906 54897
907 54898
910 54900
927 54903
997 54905
Proposed Rules:
1006 54947
1011 54948
1012 54947
1013 54947

9 CFR
160 54906
161 54906
162 54906

13 CFR
Proposed Rules:
120 54949

14 CFR
71 (3 documents) 54916, 54917

20 CFR
404 54917
422 54917

26 CFR
1 54919
602 54919
Proposed Rules:
1 54957

40 CFR
52 54931
271 54932
374 55038
Proposed Rules:
141 54957
143 54957

44 CFR
64 54933

47 CFR
73 (5 Documents) 54935, 54936

49 CFR
Proposed Rules:
571 54958
575 (2 documents) 54962, 54963

50 CFR
675 54936
Proposed Rules:
658 54965

Federal Register
Vol. 57, No. 226
Monday, November 23, 1992

Presidential Documents

Title 3—

The President

Memorandum of October 22, 1992

Exports of Domestically Produced Heavy Crude Oil

Memorandum for the Secretary of Commerce [and] the Secretary of Energy

On January 2, 1990, the Department of Commerce transmitted to the Congress a report entitled "U.S. Crude Oil Exports" that was required under Section 2424 of the Omnibus Trade and Competitiveness Act of 1988. The report recommended modifying the existing restrictions on the export of crude oil produced in the lower 48 states to allow the export of California heavy crude. Building on that report, the National Energy Strategy, released in February 1991, recommended authorizing the export of California heavy crude oil in order to reduce well abandonments, prevent loss of existing domestic oil reserves, and further diversify world oil production.

Before exports of such heavy crude oil can be authorized, certain findings and determinations must be made under Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212(b)), Section 28(u) of the Mineral Leasing Act as amended by the Trans-Alaska Pipeline Authorization Act of 1973 (30 U.S.C. 185(u)), and the Export Administration Act of 1979, as amended, and continued in effect through my invocation of the International Emergency Economic Powers Act.

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the laws cited herein and Executive Order 12730, I hereby find and determine that exports of California heavy crude oil having a gravity of 20 degrees API or lower are in the national interest, and I find and determine that such petroleum exports:

(1) are in accordance with the provisions of the Export Administration Act of 1979, as amended;

(2) are consistent with the purpose of the Energy Policy and Conservation Act; and

(3) will not diminish the total quality or quantity of petroleum available to the United States.

In making these findings, I have taken into account the national interest as related to the need to leave uninterrupted or unimpaired:

(1) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state;

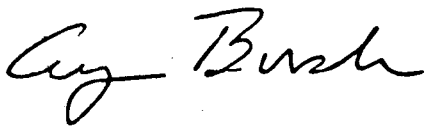
(2) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign state which exports reenter the United States; and

(3) the historical trading relations of the United States with Canada and Mexico.

Further, I direct the Secretary of Commerce, based on the findings and determinations herein, to modify the existing restrictions on the export of crude oil produced in the lower 48 states to allow the export of California heavy crude oil and, as part of these actions, the Secretary of Commerce shall initially allow the export of an average quantity of 25,000 barrels per day of California heavy crude oil having a gravity of 20 degrees API or lower.

To assist the Secretary of Commerce in carrying out these actions, I direct the Secretary of Energy, in consultation with the Secretaries of Commerce, the Interior, Transportation and other interested agencies, to review periodically such crude oil exports in light of then-existing market circumstances. Based on the results of these reviews, the Secretary of Energy is authorized to recommend to the Secretary of Commerce that adjustments be made in the quantity of California heavy crude oil allowed to be exported. Such adjustments shall allow the export of the maximum quantity that will not diminish the total quantity or quality of petroleum available to the United States. The Secretary of Commerce shall take necessary, proper and prompt action to implement the Secretary of Energy's recommendation.

The Secretary of Commerce is authorized and directed to publish this memorandum in the **Federal Register.**



THE WHITE HOUSE,
Washington, October 22, 1992.

[FR Doc. 92-28567
Filed 11-19-92; 3:51 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 57, No. 226
Monday, November 23, 1992

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 906

[Docket No. FV-92-079FR]

Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; 1992-93 Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 906. Funds to administer this program are derived from assessments on handlers. This action is needed in order for the Texas Valley Citrus Committee (TVCC), the agency responsible for the administration of the order, to have sufficient funds to meet the expenses of operating the program. This facilitates program operations. An annual budget of expenses is prepared by the Committee and submitted to the U.S. Department of Agriculture (Department) for approval.

EFFECTIVE DATE: August 1, 1992, through July 31, 1993.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-690-3670.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order No. 906, both as amended (7 CFR part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, Texas citrus is subject to assessments. It is intended that the assessment rate will be applicable to all assessable Texas oranges and grapefruit handled during the 1992-93 fiscal year (August 1, 1992-July 31, 1993). This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, his jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 135 handlers subject to regulation under the marketing order for oranges and grapefruit grown in Texas, and about 2,500 orange and grapefruit producers in Texas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

The marketing order for Texas oranges and grapefruit, administered by the Department, requires that an annual budget of expenses be prepared by the TVCC and submitted to the Department for approval. The members of the TVCC are handlers and producers of Texas oranges and grapefruit. They are familiar with the TVCC's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the TVCC is derived by dividing anticipated expenses by expected shipments of oranges and grapefruit. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the TVCC's expected expenses. The recommended budget and rate of assessment are usually acted upon by the TVCC shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the TVCC will have funds to pay its expenses.

The TVCC met on June 3, 1992, and unanimously recommended a 1992-93 budget of $577,200 and an assessment rate of $0.15 per 7/10 bushel carton. In comparison, 1991-92 budgeted expenditures were $102,250. Due to a small crop caused by a severe freeze in December 1989, no assessment rate was established for the 1991-92 fiscal year. Assessment income for 1992-93 is estimated at $375,000 based on anticipated fresh domestic shipments of

2.5 million cartons of oranges and grapefruit. This, along with $10,000 in interest income, $46,200 in other income (spoon sales and fax machine rental) and $146,000 from the TVCC's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve at the end of the 1992–93 fiscal year, estimated at $235,105, will be within the maximum permitted by the order of one fiscal year's expenses.

Major budget categories for 1992–93 include $62,000 for administration of the marketing order and $356,700 for costs associated with TexaSweet Citrus Advertising, Inc. (TCAI). TCAI has carried out the TVCC's advertising and promotion program for the past several seasons. Other research projects include $10,000 for a tree census survey and $148,000 for a Mexican fruit fly support program.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule concerning this action was published in the **Federal Register** on August 4, 1992 (57 FR 34268). Comments on the proposed rule were invited from interested persons until August 14, 1992. No comments were received.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found that this rule, as hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The TVCC needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1992–93 fiscal year began August 1, 1992, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable oranges and grapefruit handled during the fiscal year; (3) handlers are aware of this action which was unanimously recommended by the TVCC at a public meeting.

List of Subjects in 7 CFR Part 906

Grapefruit, Marketing agreements and orders, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 906 is amended as follows:

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

1. The authority citation for 7 CFR part 906 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Note: This section will not appear in the Code of Federal Regulations.

21. A new § 906.232 is added to read as follows:

§ 906.232 Expenses and assessment rate.

Expenses of $577,200 by the Texas Valley Citrus Committee are authorized, and an assessment rate of $0.15 per carton of assessable oranges and grapefruit is established for the 1992–93 fiscal period ending on July 31, 1993. Unexpended funds may be carried over as a reserve.

Dated: November 16, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–28283 Filed 11–20–92; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 907

[Navel Orange Regulation 737]

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to domestic markets during the period from November 20 through November 26, 1992. Consistent with program objectives, such action is needed to establish and maintain orderly marketing conditions for fresh California-Arizona navel oranges for the specified week. The regulation was recommended by the Navel Orange Administration Committee (Committee), which is responsible for local administration of the navel orange marketing order.

EFFECTIVE DATE: Regulation 737 [7 CFR 907.1037] is effective for the period from November 20 through November 26, 1992.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–5127; or Robert Curry, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture , 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 907 [7 CFR Part 907], as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the "Act."

This final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural

Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 130 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order and approximately 4,000 navel orange producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The largest proportion of navel orange production is located in District 1, Central California, which represented about 85 percent of the total production in 1991–92 District 2 is located in the southern coastal area of California and represented about 13 percent of 1991–92 production; District 3 is the desert area of California and Arizona, and it represented slightly less than 2 percent; and District 4, which represented less than 1 percent, is northern California.

The Committee adopted its marketing policy for the 1992–93 season on July 28, 1992. The Committee reviewed its marketing policy at district meetings as follows: Districts 1 and 4 on September 22, 1992, in Visalia, California; and District 2 and 3 on September 29, 1992, in Ontario, California. The Committee revised its crop estimate, utilization, and shipping schedule at its September 22 meeting and revised them again at its November 17 meeting. The marketing policy discussed, among other things, the potential use of volume regulations for the ensuing season. The marketing policy and the revised shipping schedule are available from the Committee or Mr. Nissen.

The Committee's revised estimate of 1992–93 production is 85,500 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 72,644 cars during the 1991–92 season. The Committee has estimated that about 61 percent of the 1992–93 crop of 85,500 cars will be utilized in fresh domestic channels (52,209 cars), with the remainder being exported fresh (12 percent), processed (25 percent), or designated for other uses (2 percent). This compares with the 1991–92 total of 44,875 cars shipped to fresh domestic markets, about 62 percent of that year's crop.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing this regulation are expected to be more than offset by the potential benefits of regulation.

A proposed rule, based on the Committee's 1992–93 marketing policy, was published on October 23, 1992, in the **Federal Register** [57 FR 48340] inviting comments on the quantities of fresh California-Arizona navel oranges that may be shipped weekly to domestic markets for the 10-week period from the week ending November 5 through the week ending January 7, 1993. That rule provided interested persons the opportunity to comment on a proposed weekly volume regulation shipping level of 1,400,000 cartons for the week ending November 26.

Three comments have been received, one from Sequoia Orange Company, Inc. (Sequoia), one from Foothill Farms, and one from Bee Sweet Citrus, Inc. (Bee Sweet). The comments addressed all ten weeks of the proposed rule. The comments made by Sequoia and Foothill Farms were addressed in the final rule published on November 17, 1992, in the **Federal Register** [57 FR 54169], and warrant no further comment.

In its comment, Bee Sweet opposed the issuance of prorate during this period, commenting that its weekly allotment under volume regulation is so low that it cannot operate its packing-house at full capacity. The intent of volume regulations issued under the navel orange marketing order is primarily to benefit growers by stabilizing supplies and prices through controlling the flow of oranges to market during the season.

The goal of such regulation is to increase returns to growers while providing consumers an adequate supply of the commodity in the marketplace. Volume regulations can lengthen the season during which oranges are shipped, creating a longer period of time in which citrus harvesters and packing line crews may be employed. Moreover, the stability which growers seek through the marketing order regulations is of benefit to harvesting and packing crews as well.

Therefore, for the reasons stated, the above comments in opposition to the proposed rule, as well as the alternatives presented, are denied.

The Committee met publicly on November 17, 1992, in Newhall, California, to consider the current and prospective conditions of supply and demand and recommended, with eight members voting in favor, two opposing, and one abstaining, that 1,300,000 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations was compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, preceding week's shipments and shipments to date, crop conditions and weather and transportation conditions.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1992–93 marketing policy. The recommended amount of 1,300,000 cartons is 100,000 cartons below the amount of cartons specified in the proposed rule. However, the Department, based on its independent analysis, and information provided by the Committee, has revised the recommendation and established volume regulation in the amount of 1,400,000 cartons for Districts 1 and 3. Of the 1,400,000 cartons, 95.3 percent or 1,334,200 cartons are allotted for District 1, and 4.7 percent or 65,800 cartons are allotted for District 3. Districts 2 and 4 will remain open as they have not yet begun to ship.

During the week ending on November 12, 1992, shipments of navel oranges to fresh domestic markets, including Canada, totaled 1,658,000 cartons compared with 394,000 cartons shipped during the week ending on November 14, 1991. Export shipments totaled 77,000 cartons compared with 125,000 cartons shipped during the week ending on November 14, 1991. Processing and other uses accounted for 498,000 cartons compared with 85,000 cartons shipped during the week ending on November 14, 1991.

Fresh domestic shipments to date this season total 3,774,000 cartons compared with 442,000 cartons shipped by this time last season. Export shipments total 139,000 cartons compared with 131,000 cartons shipped by this time last season. Processing and other use shipments total 1,307,000 cartons compared with 100,000 cartons shipped by this time last season.

For the week ending November 12, shipments of navel oranges to the fresh domestic market were not regulated. At the Committee meeting, regulated general maturity shipments for the current week (November 13 through November 19, 1992) were estimated at 1,700 cartons on an allotment of 1,500 cartons. Thus, overshipments of 200 cartons could be carried forward into the week ending on November 26, 1992.

The average f.o.b. shipping point price for the week ending on November 12, 1992, was $8.18 per carton based on a reported sales volume of 810,000 cartons. The season average f.o.b. shipping point price to date is $8.73 per carton. The average f.o.b. shipping point price for the week ending on November 14, 1991, was $14.49 per carton; the season average f.o.b. shipping point price at this time last year was $15.08.

The Department's Market News Service reported that, as of November 17, demand for California-Arizona navel oranges sizes 48–72 is "good", "moderate" for size 88s, "fairly slow" for all other sizes. The market was reported as "about steady".

At the meeting, Committee members discussed implementing volume regulation at this time, as well as different levels of allotment. Most Committee members expressed concern with the recent drop in prices for navel oranges. Several members indicated that the "supply pipeline" was full and that if too much fruit was shipped into the market now, prices could continue to decline. One member commented that the oversupply situation would only get worse if the Committee was not restrictive in its recommendation for the upcoming week. However, another Committee member expressed his concern that any fruit not shipped into the fresh market would only be downgraded into byproducts. Two Committee members favored open movement at this time, while the majority of Committee members favored the issuance of general maturity allotment for Districts 1 and 3 at 1,300,000 cartons, 100,000 cartons lower than scheduled.

According to the National Agricultural Statistics Service, the 1991–92 season average fresh equivalent on-tree price for California-Arizona navel oranges was $5.29 per carton, 71 percent of the season average parity equivalent price of $7.43 per carton. Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1992–93 season average fresh on-tree price is estimated at $3.49 per carton, about 45 percent of the estimated fresh on-tree parity equivalent price of $7.83 per carton.

Limiting the quantity of navel oranges that may be shipped during the period from November 20 through November 26, 1992, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date of the final recommendation of the Committee based on the latest marketing information, and the effective date necessary to effectuate the declared policy of the Act.

This action needs to be effective for the regulatory week which begins on November 20, 1992. Interested persons were given the opportunity to comment on a proposed rule published on October 23, 1992, in the **Federal Register** [57 FR 48340]. Further, interested persons were given an opportunity to submit information and views on the regulation prior to and at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.1037 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 907.1037 Navel Orange Regulation 737.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 20 through November 26, 1992, is established as follows:

District	Cartons (thousands)	Percent
District 1	1,334.9	95.3
District 2	(1)	
District 3	65.8	4.7
District 4	(1)	
Total	1,400.7	100.0

[1] Open.

Dated: November 18, 1992.

Robert O. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–28484 Filed 11–19–92; 3:28 pm]

BILLING CODE 3410–02–M

7 CFR Part 910

[Lemon Regulation 762]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh domestic markets during the period from November 22 through November 28, 1992. Consistent with program objectives, such action is needed to balance the supplies of fresh lemons with the demand for such lemons during the period specified. This action was recommended by the Lemon Administrative Committee (Committee), which is responsible for local administration of the lemon marketing order.

EFFECTIVE DATE: Regulation 762 (7 CFR 910.1062) is effective for the period from November 22 through November 28, 1992.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of

Agriculture (Department), room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 690–3670; or Martin Engeler, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, 2202 Monterey Street, suite 102B. Fresno, CA 93721; telephone: (209) 487–5901.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 910 (7 CFR Part 910), as amended, regulating the handling of lemons grown in California and Arizona. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,000 lemon producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The Committee adopted its marketing policy for the 1992–93 season on May 5, 1992. The marketing policy discussed, among other things, the potential use of volume and size regulations for the ensuing season. This marketing policy is available from the Committee or Mr. Johnson.

Based on its revised crop estimate of 44,170 cars, the Committee estimates that about 40 percent of the 1992–93 crop will be utilized in fresh domestic channels (17,750 cars), compared with the 1991–92 total of approximately 17,000 cars. Fresh exports are projected at 16 percent of the total 1992–93 crop utilization, the same percentage for 1991–92. Processed and other uses would account for the residual 44 percent, again the same percentage for the 1991–92 crop.

Based on the Committee's marketing policy, that crop and market information provided by the Committee, and other information available to the Department, the costs of implementing this regulation are expected to be more than offset by the potential benefits of regulation.

A proposed rule, based on the Committee's 1992–93 marketing policy, was published October 29, 1992, in the **Federal Register** (57 FR 49023) inviting comments on the quantities of fresh California-Arizona lemons that may be shipped weekly to domestic markets for the 10-week period from the week ending November 14 through the week ending January 16, 1993. That rule provided interested persons the opportunity to comment on a proposed weekly volume regulation shipping level of 275,000 cartons for the week ending November 28. (Volume regulation was not implemented for the first two weeks in the rule.)

Two comments were received, one from Associated Citrus Packers, Inc. (ACPI), and one from Sequoia Orange Company, Inc. (Sequoia). The comments addressed all 10 weeks of the proposed rule. In its comment, ACPI challenged the need to implement volume regulations for the 1992–93 season in order to stabilize the lemon market and ultimately increase grower returns. ACPI pointed to the experience of the 1986–87 season, the last time the California-Arizona lemon industry went from an extended period of open movement to implementing volume regulations. During the week of September 14 to September 20, 1986, volume regulation was reinstituted after a long period of open movement. According to ACPI, the fiscal year-to-date average f.o.b. price for lemons was $8.21 per carton at that time. The packout percentage in District 3 (California desert and Arizona) was only 51 percent fresh. Four and a half months later at the end of January 1987, the fiscal year-to-date f.o.b. price for lemons had increased only 6.8 percent to $8.77 per carton. During the same period, the fresh packout percentage in District 3 fell 20.4 percent to 41 percent.

ACPI concluded that implementing volume regulations in the 1986–87 season reduced by 20.3 percent the average return per field box to District 3 growers from the first week of regulation through the completion of the District 3 harvest in late January 1987.

ACPI further stated that after the Committee recommended prorate for the week ending September 20, 1986, there was an increase of more than 30 percent in the level of shipments from the previous week. ACPI believes that re-instituting volume regulations will inundate the marketplace with additional lemon supplies, contrary to the objective of achieving orderly marketing conditions.

It is the Department's position that when volume regulation was re-instituted the week of September 14–20, 1986, there was general agreement in the industry that prices were extremely low and that there would be little or no improvement if volume regulations were not established to adjust weekly fresh market supplies to better match consumer demand. In contrast to ACPI's statement that prices had increased only 6.8 percent to $8.77 per carton by January 1987, prices may have decreased if the normal season pattern had prevailed.

Moreover, it is normal for the fresh packout to decrease between September

and January. The demand for fresh lemons is seasonal by nature. Because of this, the fresh packout percentage traditionally decreases during the winter, as compared with other seasons. If prorate had not been in effect during the September 1986 through January 1987 period, prices to growers, as indicated by historical weekly shipments and average price relationships, most likely would have been much lower than $8.77 per carton.

As indicated by ACPI, packers may be expected to increase shipments prior to the implementation of prorate, as they did in September 1986. However, this should result in only one week or so of excessive supplies. Prices can subsequently be expected to return to more normal seasonal patterns.

In its comment, Sequoia raised several points to support its contention that implementing volume regulation for lemons would not be consistent with the Act or the marketing order. First, Sequoia stated that to determine whether growers benefit from regulation, it is necessary to consider total grower revenues, and that limiting consideration only to returns from fresh domestic sales is inadequate.

While the Committee's published average f.o.b. price is derived from reports of fresh domestic sales, the Committee does consider export market conditions and processing utilization in its deliberations concerning volume regulation. In addition, the Department's price considerations, including its parity price calculations, take into account prices for all fresh lemon sales, including those made to export markets. Further, the processing and other by-products outlets are considered. While volume regulation may increase the quantities of lemons disposed of in by-products markets and thus decrease the prices received for lemons sold in such outlets, it is the Department's conclusion that any such price decline is more than offset by the strengthening of prices received for lemons sold in fresh market channels.

Sequoia also states that current storage levels only exceed last year's by about one week's shipments, and therefore concludes that supplies are manageable and volume regulation is unnecessary. The Committee reports that as of November 14, 1992, the quantity of lemons in storage totaled 2,628,000 cartons, compared with 1,803,000 cartons at this time a year ago. The quantity of lemons currently in storage represents more than three times the total movement for the week ending November 14, and eight and a half times the fresh domestic shipment level for that week.

Sequoia also claimed that during the first four months of 1993, a limited volume of lemons will be available from District 1 (Central California). Thus, volume regulation will not be needed during that period of time. This rule establishes volume regulation for the week ending November 28, 1992. Therefore, Sequoia's statement regarding supply conditions expected during the period of January through April 1993 is premature. Supply and market conditions will continue to be monitored and analyzed each week of the season to determine whether the issuance of volume regulation is appropriate.

Finally, Sequoia opposed volume regulation because the season-to-date price exceeds the parity price level. Consistent with the provisions of the Act, the Department considers the price-parity relationship in its decisions as to whether to issue volume regulation. Contrary to Sequoia's contention, according to the National Agricultural Statistics Service, the season-to-date on-tree price for California-Arizona fresh lemons is $8.46 per carton, 84 percent of the season-to-date parity equivalent price. More importantly, the season average fresh on-tree price is projected at $9.28 per carton, 85 percent of the preliminary season average parity equivalent price of $10.96 per carton.

Therefore, for the reasons stated, the above comments in opposition to the proposed rule, as well as the alternatives presented, are denied.

The Committee met publicly on November 17, 1992, in Newhall, California, to consider the current and prospective conditions of supply and demand and, by a 10 to 2 vote, with 1 abstention, recommended that 275,000 cartons is the quantity of lemons deemed advisable to be shipped to fresh domestic markets during the specific week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, the preceding week's shipments and shipments to date, crop conditions, and weather and transportation conditions.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1992–93 marketing policy. This recommended amount is consistent with the amount specified in the proposed rule.

During the week ending on November 14, 1992, shipments of lemons to fresh domestic markets, including Canada, totaled 309,000 cartons compared to 296,000 cartons shipped during the week ending on November 16, 1991. Export shipments totaled 131,000 cartons compared with 104,000 cartons shipped during the week ending on November 16, 1991. Processing and other uses accounted for 397,000 cartons compared with 192,000 cartons shipped during the week ending on November 16, 1991.

Fresh domestic shipments to date for the 1992–93 season total 5,023,000 cartons compared with 4,245,000 cartons shipped by this time during the 1991–92 season. Export shipments total 1,860,000 cartons compared with 1,808,000 cartons shipped by this time during 1991–92. Processing and other use shipments total 4,182,000 cartons compared with 2,144,000 cartons shipped by this time during 1991–92.

The average f.o.b. shipping point price for the week ending on November 14, 1992, was $8.63 per carton based on a reported sales volume of 309,000 cartons compared with last week's average of $9.03 per carton on a reported sales volume of 324,000 cartons. The 1992–93 season average f.o.b. shipping point price to date is $12.51 per carton. The average f.o.b. shipping point price for the week ending on November 16, 1991, was $14.55 per carton; the season average f.o.b. shipping point price at this time during 1991–92 was $17.63 per carton.

The Department's Market News Service reported that, as of November 16, demand for lemons is fairly light and the market is about steady.

At the meeting, Committee members discussed implementing volume regulation at this time, as well as different levels of shipments. The majority of Committee members were concerned with the declining market and prices, high storage levels and declining export demand, and agreed that volume regulation was needed to ensure a stable market. Two Committee members favored open movement at this time, while the majority of the Committee members favored the issuance of volume regulation. Thus, the Committee, by a 10 to 2 vote, with 1 abstention, recommended volume regulation for the week ending on November 28, 1992.

Limiting the quantity of lemons that may be shipped during the period from November 22 through November 28 1992, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of lemons to market.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date of the final recommendation of the Committee, based on the latest marketing information, and the effective date necessary to effectuate the declared policy of the Act.

This action needs to be effective for the regulatory week which begins on November 22, 1992. Interested persons were given the opportunity to comment on a proposed rule published on October 29, 1992, in the **Federal Register** (57 FR 49023). Further, interested persons were given an opportunity to submit information and views on the regulation prior to and at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.1062 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.1062 Lemon Regulation 762.

The quantity of lemons grown in California and Arizona which may be handled during the period from November 22 through November 28, 1992, is established at 275,000 cartons.

Dated: November 19, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–28485 Filed 11–20–92; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 927

[Docket No. FV92–927–1IFR]

Expenses and Assessment Rates for Marketing Order Covering Winter Pears Grown in Oregon, Washington, and California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule amends a previous interim final rule which authorized expenditures and established assessment rates for the Winter Pear Control Committee (committee) under M.O. No. 927. This interim final rule authorizes an increased level of expenditures and establishes higher assessment rates for the 1992–93 fiscal period (July 1–June 30). Authorization of this budget enables the committee to incur expenses that are reasonable and necessary to administer this program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning July 1, 1992 through June 30, 1993. Comments received by December 23, 1992 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mark A. Hessel, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone: (202) 720–3923.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Order No. 927 (7 CFR part 927) regulating the handling of winter pears grown in Oregon, Washington, and California. This agreement and order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, winter pears grown in Oregon, Washington, and California are subject to assessments. It is intended that the assessment rates specified herein will be applicable to all assessable winter pears handled during the 1992–93 fiscal year, beginning July 1, 1992, through June 30, 1993. This interim final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 85 handlers of winter pears regulated under the marketing order each season and approximately 1,850 winter pear producers in Washington, Oregon and California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

The winter pear marketing order, administered by the Department, requires that the assessment rates for a particular fiscal year apply to all assessable pears handled from the beginning of such year. Annual budgets of expenses are prepared by the Winter Pear Control Committee, the agency responsible for local administration of this marketing order, and submitted to the Department for approval. The members of the committee are pear handlers and producers. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area, and are thus in a position to formulate appropriate budgets. The committee's budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rates recommended by the committee are derived by dividing the anticipated expenses by expected shipments of pears (in standard boxes). Because those rates are applied to actual shipments, they must be established at rates which will provide sufficient income to pay the committee's expected expenses.

The committee initially met on May 29, 1992, and recommended 1992–93 fiscal period expenditures of $6,039,367 and an assessment rate of $0.415 per standard box equivalent. In addition, the committee approved an additional assessment rate of $0.03 per standard box equivalent on Anjou variety pears. This action was published as an interim final rule in the **Federal Register** (57 FR 39107, August 28, 1992). That rule also provided a 30-day comment period which ended September 28, 1992. No comments were received.

The committee met September 29, 1992, and unanimously recommended to increase 1992–93 fiscal period expenditures to $6,716,983 and to increase the basic assessment rate to $0.43 per standard box equivalent. In addition, the supplemental assessment rate for Anjou pears was unanimously recommended to be increased to $0.09 per standard box equivalent which gives a total assessment rate of $0.52 per standard box equivalent on Anjou pears for the 1992–93 fiscal period. This supplemental assessment will be used to fund Ethoxyquin research. The committee's 1991–92 fiscal period budgeted expenditures were $5,130,616 and the assessment rate was $0.38.

These expenditures are primarily for paid advertising and promotion, winter pear improvement, and program administration. Aside from the major budget increases which occurred for winter pear improvement, Ethoxyquin research, paid advertising, and contingency line items, most of the expenditure items are budgeted at about last year's amounts. Small increases were made for salaries, professional services, district representative fees, and industry development.

Assessment income for the 1992–93 fiscal period is expected to total $6,230,000 based on shipments of 12,500,000 packed boxes of pears at $0.43 per standard box or equivalent plus an additional $0.09 per standard box of Anjou pears. Other available funds include $150,000 of voluntary payments on assessments of intrastate shipments, $10,000 of prior year assessments, a reserve of $301,983 carried into this fiscal period, and $25,000 of miscellaneous income including interest bearing accounts. Total funds available equal $6,716,983 the same as the recommended budget.

The committee also unanimously recommended that any unexpended funds or excess assessments from the 1991–92 fiscal period be placed in its reserve. The reserve is within the limits authorized under the marketing order.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs should be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that this rule as hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the fiscal year for the committee began July 1, 1992, and the marketing order requires that the rates of assessment for the fiscal year apply to all assessable pears handled during the fiscal year; (3) handlers are aware of this action which was unanimously recommended by the committee at a public meeting and which is similar to budgets issued in past years; and (4) this interim final rule provides a 30 day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 927 is amended as follows:

PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

1. The authority citation for 7 CFR part 927 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Note: This section will not appear in the annual Code of Federal Regulations.

2. Section 927.232 is revised to read as follows:

§ 927.232 Expenses and assessment rate.

Expenses of $6,716,983 by the Winter Pear Control Committee are authorized and an assessment rate of $0.43 per standard box, or equivalent, of assessable pears is established for the fiscal period ending June 30, 1993. In addition, a supplemental assessment rate of $0.09 per standard box, or equivalent, of Anjou variety pears is established for the same fiscal period for research. Unexpended funds may be carried over as a reserve.

Dated: November 16, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–28284 Filed 11–20–92; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 997

[Docket No. FV-92-074FR]

Changes in the Provisions Regulating the Quality of Domestically Produced Peanuts Not Subject to the Peanut Marketing Agreement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is adopting without modification, as a final rule, the provisions of an interim final rule (IFR) which changed the outgoing quality regulations which regulate the quality of peanuts handled by persons who are not signatory to the Peanut Marketing Agreement. The IFR changed the outgoing regulations to allow commingling of peanut lots of different quality levels at the request of the buyer after the lots have passed quality and aflatoxin inspection and have been positive lot identified (PLI) and to provide handlers with the option of selling failed peanut lots to second handlers for blanching. These actions will continue to facilitate the movement of peanuts to market and, thus, should increase the volume of peanuts placed in marketing channels. These changes will bring the quality requirements into conformity with those specified in the Agreement.

EFFECTIVE DATE: November 23, 1992.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-3610.

SUPPLEMENTARY INFORMATION:

This rule is issued pursuant to requirements of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and as further amended December 12, 1989, Public Law 101-220, section 4(1), (2), 103 Stat. 1878, hereinafter referred to as the "Act."

This rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. This action is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

There are approximately 25 handlers of peanuts who have not signed the Agreement and thus, are subject to the regulations contained herein. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $3,500,000. It is estimated that most of the handlers are small entities. Most producers doing business with these handlers are also small entities. Small agricultural producers have been defined as those having annual receipts of less than $500,000.

There are the three major peanut production areas in the United States: (1) Virginia-Carolina, (2) Southeast, and (3) Southwest. The Virginia-Carolina area (primarily Virginia and North Carolina) usually produces about 18 percent of the total U.S. crop. The Southeast area (primarily Georgia, Florida and Alabama) usually produces about two-thirds of the crop. The Southwest area (primarily Texas, Oklahoma, and New Mexico) produces about 15 percent of the crop. Based upon the most current information, U.S. peanut production in 1991 totalled 4.94 billion pounds, a 37 percent increase from 1990. The 1991 crop value is $1.4 billion, up 12 percent from 1990.

Since aflatoxin was found in peanuts in the mid-1960's, the domestic peanut industry has sought to minimize aflatoxin contamination in peanuts and peanut products. The Agreement plays a very important role in the industry's quality control efforts. It has been in place since 1965. Approximately 5 percent of the crop is marketed by handlers who are not signatory to the Agreement.

Requirements established pursuant to the Agreement provide that farmer's stock peanuts with visible *Aspergillus flavus* mold (the principal source of aflatoxin) must be diverted to non-edible uses. Each lot of shelled peanuts, destined for edible channels, must be officially sampled and chemically tested for aflatoxin by the Department or in laboratories approved by the Peanut Administrative Committee (Committee). The Committee, established under the Agreement, works with the Department in administering the marketing agreement program. Inspection and chemical analysis programs are administered by the Department.

Public Law 101-220, enacted December 12, 1989, amended section 608b of the Act to require that all peanuts handled by persons who have not entered into the Agreement (non-signers) be subjected to quality and inspection requirements to the same extent and manner as are required under the Agreement. Under the amendment, no peanuts may be sold or otherwise disposed of for human consumption if the peanuts fail to meet the quality requirements of the Agreement.

Regulations to implement P.L. 101-220 were issued and made effective on December 4, 1990 (55 FR 49980), amended on October 31, 1991 (56 FR 55988), and are published in 7 CFR part 997. Violation of those regulations may result in a penalty in the form of an assessment by the Secretary equal to 140 percent of the support price for quota peanuts. The support price for quota peanuts is determined under section 108b of the Agricultural Act of 1949 (7 U.S.C. 1445c-2) for the crop year during which the violation occurs. The intent of P.L. 101-220 and the objective of the Agreement is to insure that only wholesome peanuts of good quality enter edible market channels.

An interim final rule was published in the **Federal Register** on August 28, 1992, (57 FR 39112) authorizing these changes. Comments were invited until September 28, 1992. No comments were received.

The first change amends § 997.30(d) to allow commingling of peanut lots of different grade categories at the request of a buyer, after the lots have passed quality and aflatoxin inspection and have been PLI. Some buyers do not have commingling equipment at their facilities. This rule allows handlers to satisfy the occasional request received from buyers that multiple lots be mixed prior to shipment to the buyer. Because each commingled lot will lose its original identity, the commingled load will no longer be considered PLI and the peanuts comprising the load will no longer be eligible for an appeal inspection. A transfer certificate will be issued on the entire, commingled load certifying that, prior to commingling, the individual lots were PLI and had met all program requirements. Loss of the

handler's right to an appeal inspection should not represent a significant concern to handlers as lots that pass quality and aflatoxin inspection normally do not need an appeal inspection.

The change is beneficial to the industry because it facilitates movement of peanuts and helps handlers meet their customers' needs. The change is affected by adding the following at the end of § 997.30(d): "* * * except that lots which are commingled at the request of the buyer will require a transfer certificate to be issued designating that the lots were positive lot identified prior to commingling. All such commingled lots will no longer be considered positive lot identified, and, therefore, no longer eligible for appeal inspection."

The second change clarifies that handlers can sell peanut lots failing to meet outgoing quality and aflatoxin requirements to other handlers for blanching or further handling. Section 997.40(a)(1) provides the first handler with the option of selling a lot of failed peanuts to a second handler for remilling or further handling. This rule provides the same opportunity with regard to blanching; i.e., that a first handler may sell a failed lot of peanuts to a second handler for blanching or for further handling. Such peanuts shall be blanched pursuant to paragraph (a)(2) of § 997.40. Blanching is one of the most commonly used methods of making peanuts which fail quality and/or aflatoxin requirements suitable for human consumption. It was not the intention of the Department, when promulgating part 997, to exclude blanching from disposition options available to second handlers.

As noted in paragraph (a)(1) with regard to remilling, second handlers may be either handlers who are not signatory to the Agreement or are signatory handlers as defined in 7 CFR 998.8. The same definition of handler is applied under paragraph (a)(2) for blanching.

This action was implemented by inserting one sentence in paragraph (a)(2) of § 997.40 specifying that a handler may sell failed peanuts to another handler, or a handler as defined in the Agreement (7 CFR 998.8), for blanching or further handling. To be eligible for disposal into human consumption outlets, peanuts blanched by a second handler must meet the requirements listed in § 997.30(a) and be accompanied by a negative aflatoxin certificate. Movement of such peanut lots must conform to requirements of paragraphs (a)(3) and (a)(4) of § 997.40. That is, lots must be accompanied by a valid grade inspection certificate and be PLI; title to the lots for custom remilling or blanching must be retained by the handler until certified for human consumption; peanuts which continue to fail quality requirements must be reported to the Department; and, residual peanuts continuing to fail quality and aflatoxin requirements must be disposal of by crushing or export, or be disposed of according to provisions in paragraph (b)(3) of § 997.40.

Similar changes have been made in the outgoing quality regulation of the Agreement (7 CFR 998.200), effective for the 1992–93 crop year.

Both of the actions in this rulemaking will continue to facilitate the movement of peanuts to market and, thus, may increase the volume of peanuts placed in the channels of commerce. The commingling change should help some smaller handlers meet load specifications for buyers who had previously only dealt with large handlers.

There are no changes applicable to the incoming quality requirements. Therefore, the incoming quality regulation applicable to 1991–92 crop peanuts continues to be effective for 1992–93 crop peanuts.

Based on available information, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

The information collection requirements that are contained in the sections of these regulations have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0163.

After consideration of all available information, it is found that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The interim final rule relaxed restrictions on peanut handlers not subject to the Agreement; (2) the interim final rule provided a 30-day comment period, and no comments were received; and (3) this action finalizes the interim final rule without change.

List of Subjects in 7 CFR Part 997

Food grades and standards, Peanuts, Reporting and recordkeeping requirements.

PART 997—PROVISIONS REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS HANDLED BY PERSONS NOT SUBJECT TO THE PEANUT MARKETING AGREEMENT

1. The authority citation for 7 CFR part 997 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674; Sec. 4, 103 Stat. 1878, 7 U.S.C. 608b.

2. For reasons set forth in the preamble, the interim final rule amending 7 CFR part 997, which was published at 57 FR 39112 on August 28, 1992, is adopted as a final rule without change.

Dated: November 16, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–28285 Filed 11–20–92; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Parts 160, 161, and 162

[Docket No. 91–027–3]

Accreditation of Veterinarians

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are revising the regulations by which we accredit veterinarians and authorize them to perform, on behalf of the Animal and Plant Health Inspection Service, certain animal health activities. These changes establish accreditation on a national rather than a State basis, and also remove a test currently required for accredited veterinarians, require an orientation program for each newly accredited veterinarian, and specify standards for performance of certain services by accredited veterinarians. We are also revising procedures for suspending and revoking accredited veterinarian status, and adding language describing how civil and criminal penalties may be imposed on accredited veterinarians who violate regulatory requirements. These changes will help ensure that an adequate number of qualified accredited veterinarians are available in the United States to perform necessary animal health activities. These changes affect currently accredited veterinarians and future

applicants for accredited veterinarian status.

EFFECTIVE DATE: Final rule effective November 23, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. J.A. Heamon, Staff Veterinarian, Sheep, Goat, Equine, and Poultry Diseases Staff, VS, APHIS, USDA, room 700, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6954.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 9 CFR parts 160, 161, and 162 (referred to below as the regulations), some veterinarians are accredited by the Federal government to cooperate with the Animal and Plant Health Inspection Service (APHIS) in controlling and preventing the spread of animal diseases throughout the country and internationally. Accredited veterinarians use their professional training in veterinary medicine to perform certain regulatory tasks.

APHIS is responsible for defining the scope of the accredited veterinarian program, providing information and education regarding the program to veterinary practitioners participating as accredited veterinarians, and providing information to cooperating State governments, international partners, and the public. In addition, APHIS is responsible for enforcement of the veterinary accreditation standards contained in the regulations.

Accredited veterinarians are involved in a cooperative relationship with APHIS for disease control and prevention. Licensed veterinarians are presumed to be medically competent; accreditation in addition to licensing indicates that the accredited veterinarian is able and authorized to perform various procedures of regulatory animal health.

State governments have a role in the accredited veterinarian program through licensing and disseminating information on the accredited veterinarian program to veterinary practitioners. States also have an advisory and consultative role in the adjudication process for accredited veterinarians who violate the standards of the regulations. However, the ultimate determination of the adjudicatory sanctions in such cases rests with the Federal Government.

On June 4, 1992, we published a proposed rule in the **Federal Register** (57 FR 23540-23548, Docket No. 91-027) to change the requirements for veterinarians becoming accredited, the standards for performance of duties by accredited veterinarians, the rules of practice governing revocation and suspension of accredited veterinarians, and some definitions. Comment were solicited on the proposal for a period of 30 days, ending July 6, 1992. This comment period was later extended until July 24, 1992, by a subsequent **Federal Register** notice (57 FR 30432-30433, Docket No. 91-027-2). Comments we received on the proposed rule, and changes made in response to them, are discussed below.

Comments on the Proposed Rule

Comment: Proposed § 161.2(a)(1) calls for State Animal Health Officials (SAHO's) to review applications for accreditation that have been submitted to a Veterinarian-in-Charge. A footnote to this section indicates that by endorsing the application, the SAHO indicates that the applicant is licensed to practice veterinary medicine in that State. In many States, the SAHO is not the logical source of licensing information; instead, a State board of veterinary medical examiners or a similar body grants and revokes licenses and maintains records of licensed veterinarians. Confirmation of licensing should come from these organizations, not the SAHO. Alternatively, the applicant could be required to submit proof of licensing with the application form.

Response: We have reconsidered using endorsement of an application by the SAHO as certification that the applicant is licensed to practice veterinary medicine in the State. The footnote that is the subject of the comment has been dropped from the final rule. The Veterinarian-in-Charge who reviews the application will instead be responsible for confirming the licensing status of the applicant by contacting the State board of veterinary medical examiners or any other appropriate organization.

Comment: A SAHO is allowed only 14 days to review and endorse or object to an application for accreditation (§ 161.2(a)(1)). This period should be extended to at least 14 work days. The workload of many SAHO's and the amount of time they spend on duties away from the office necessitate increasing the review period.

Response: We think that most SAHO's will usually be able to complete their review of applications within 14 days. If a SAHO has occasional workload conflicts that prevent timely review, the SAHO can contact the Veterinarian-in-Charge to discuss extending the review period for particular applications. Therefore, we are not making any change in response to this comment.

Comment: The regulations should continue to require a written examination for applicants for accreditation. A written examination is the best away to ensure that applicants are able to perform the 16 tasks required of accredited veterinarians by § 161.2(d). The examination could be updated annually to ensure it is a current and accurate indicator of needed skills.

Response: Giving the examination, grading it, and maintaining records of its results imposes a large burden on schools of veterinary medicine and APHIS. Updating the examination annually would consume additional resources. These burdens associated with the examination are not balanced, in our opinion, by complementary benefits. We believe that the application review process will identify any deficiencies in applicant skills, which can then be remedied either through the orientation or by identifying other training the applicant needs to be able to perform the 16 tasks.

Comment: The proposed regulations delete all reference to duties performed by accredited veterinarians under the Horse Protection Act. While APHIS currently employs Federal Veterinary Medical Officers (VMO's) to conduct inspections at horse shows, limited resources may require APHIS to modify this practice in the future, so the regulations should continue to allow accredited veterinarians to perform Horse Protection Act duties.

Response: Currently there are no official duties for accredited veterinarians under the Horse Protection Act as there were at one time. Our regulations attempt to reflect current policies of APHIS, and are changed when those policies change. If at some time in the future accredited veterinarians again play a significant role in performing official Horse Protection Act duties, we will propose to amend the regulations to reflect the change.

Comment: USDA VMO's should be required to attain accredited status before performing enforcement duties. It is inappropriate for USDA to apply a different set of standards for its own VMO's than it requires of private veterinarians.

Response: Federally employed VMO's must comply with standards set by Federal civil service statutes and agency employee training, development, and job performance guidelines that match or exceed the standards set for accredited veterinarians by the regulations. Therefore, we are not making any change in response to this comment.

Comment: The proposed regulations do not clearly state whether there is a "grandfather clause" for currently accredited veterinarians, or whether currently accredited veterinarians will have to re-apply for accreditation under the proposed new standards.

Response: Veterinarians who became accredited before the effective date of this rule will continue in their accredited status without having to reapply for accreditation.

Comment: In §§ 161.2(a)(2)(ii) and 161.3, the requirement that an accredited veterinarian must be "licensed to practice veterinary medicine in the State in which the veterinarian wishes to perform accredited duties" could cause problems in States that offer reciprocal licensing agreements with other States. The text should read "licensed or legally able to practice veterinary medicine."

Response: We agree, and are changing the language in the final rule accordingly.

Comment: Section 161.2(b)(2)(iii) deals with how the Administrator will determine whether a veterinarian whose accreditation has been revoked should be reaccredited. Since State Animal Health Officials could have information bearing on this decision, the list of decisionmaking criteria should also include "Recommendations of the State Animal Health Official."

Response: This section lists types of information the Administrator would consider in making reaccreditation decisions, not the source of such information. In writing this section, we assumed that the SAHO would often provide the Veterinarian-in-Charge or the Administrator with recommendations and information relevant to reaccreditation decisions. To make this explicit, we are changing the language in § 161.2(b)(2)(iii) that currently reads "In making this conclusion, the Administrator shall consider:" to read "In making this conclusion, the Administrator shall review all available information about the applicant, including recommendations of the State Animal Health Official, and shall consider:".

Comment: Veterinarians who are reaccredited in accordance with § 161.2(b) after having their accreditation revoked should be in a probationary status for the first year following their reaccreditation.

Response: We do not believe that a probationary status is necessary in the veterinary accreditation program, in view of the fact that other procedures allow accreditation to be suspended or revoked with a minimum of formal procedures and delay. Probationary periods are most useful in situations where incumbents advance to a degree of tenure where it is extremely difficult to remove them; this does not occur in veterinary accreditation.

Comment: Proposed § 161.2(b)(2)(ii) requires that if a veterinarian whose accreditation is revoked is later reaccredited, that veterinarian must undergo a reaccreditation orientation program that addresses the deficiencies that led to revocation of accreditation. However, the proposal does not require a similar orientation for veterinarians whose accreditation is *suspended* temporarily. If a veterinarian violates the standard sufficiently to warrant suspension, it would serve everyone's best interest to require that prior to resuming accredited duties the veterinarian receive additional education as a preventative measure against reoccurrence of the violations.

Response: We agree that requiring reorientation training would be a good idea in many suspension cases, particularly those cases in which relatively severe violations resulted in suspension for 6 months or more. Therefore, we are adding a sentence to § 161.2(c) indicating that a veterinarian whose accreditation has been suspended for 6 months or more must complete a reaccreditation orientation program in accordance with § 161.2(b)(ii) before accreditation will be reinstated.

Comment: There is considerable overlap between § 161.2(d), which requires an applicant for accreditation to certify he or she is able to perform specified tasks, and § 161.2(a)(iii), which lists topics to be covered during the orientation of a an accredited veterinarian, and § 161.2(a)(2)(i), which requires an applicant for accreditation to hold a Doctor of Veterinary Medicine or equivalent degree. Many of the tasks listed in § 161.2(d) and the orientation topics included in § 161.2(a)(iii) are included in colleges of veterinary medicine. APHIS should not be placed in a position of attempting to dictate or certify curricular content, and it is important to distinguish the role of veterinary schools in providing professional education to veterinary students from the role of APHIS in ensuring that veterinary school graduates obtain the necessary additional skills in regulatory and Federal-State program operations required to perform accredited duties. APHIS should be responsible for determining which areas the applicants for accreditation have been adequately prepared for by their veterinary medical education, and the orientation program should be designed to provide instruction in additional topics and technical details of APHIS programs and requirements.

Response: We believe that APHIS and these commenters are in essential agreement about the preferred roles of APHIS, the schools of veterinary medicine, and the applicants in ensuring that applicants have the required skills to perform accredited duties. Our position is that APHIS should not dictate or approve curricular contents, but that upon request APHIS will cooperate with schools to develop training modules that address the tasks of accredited veterinarians. Through this process APHIS will know what training in particular tasks is or is not typically provided to students in schools of veterinary medicine. APHIS will then be able to develop orientation programs, and perhaps additional training, for skills not addressed by the school curriculum. APHIS will determine directly from the applicant whether the applicant needs additional training to perform any of the 16 tasks listed in § 161.2(d) and on the application form, and if necessary will work with the applicant to obtain training in missing skills.

Comment: In § 161.2(d), paragraph 1 states that the applicant for accredited status must be able to "Perform physical examinations of individual animals, herds, or flocks to determine whether they are free from communicable diseases." This implied warranty of good health is beyond the scope of what can be determined by a physical examination, which cannot conclusively determine that animals are free from all communicable diseases. The text should read that the physical examination is to determine "whether the animals are free from any visible signs suggestive of communicable disease."

Response: We agree, and are changing the text of § 161.2(d)(1) to read as follows: "(1) Perform physical examinations of individual animals, and visually examine herds or flocks, to determine whether the animals are free from any clinical signs suggestive of communicable disease;".

Comment: In the list of tasks applicants for accredited status should be able to perform (§ 161.2(d)), task 6 should be revised. It reads: "Certify the disease status of a poultry flock with regard to disease caused by *Salmonella enteritidis*, psittacosis or ornithosis, and velogenic viscerotropic Newcastle disease." This phrasing does not take into account that the disease status of poultry flocks is not usually determined by an isolated visit or examination by a veterinarian, but rather through continuing testing in the context of the

National Poultry Improvement Program or equivalent State programs. The certification by the accredited veterinarian should be based on records of the flock's participation in such programs and on results of tests conducted under such programs.

Response: We agree. We intended that accredited veterinarians would certify poultry disease status using data from Federal and State poultry health programs, but did not make that point clearly in the text. We are changing § 161.2(d)(6) to read "Certify the disease status of a poultry flock with regard to disease caused by *Salmonella enteritidis,* psittacosis or ornithosis, and velogenic viscerotropic Newcastle disease, by evaluating records of the flock's participation in and testing by Federal and State poultry health programs."

Comment: In § 161.2(d), paragraph 16 states that the applicant for accredited status must be able to "Explain basic principles for control of diseases for which APHIS programs exist * * *". Many of the programs APHIS is involved in are cooperative programs mainly implemented by States, and this task should recognize the responsibility of accredited veterinarians to explain them.

Response: We agree, and are changing that language to read "APHIS or APHIS-State cooperative programs."

Comment: The provision in § 161.3 to allow an authorized assistant to perform some accredited duties is inadvisable because it will hamper enforcement of program standards and will create liability on the part of the accredited veterinarian for activities performed by another person, who may not perform them properly.

Also, the authorized assistant proposal suggests that authorized assistants could be used to perform veterinary duties that many State laws require be performed only by licensed veterinarians.

Also, it is possible that some States may not honor certificates signed by an authorized assistant, and some foreign countries may not honor export certificates signed by an authorized assistant.

Also, if authorized assistants are allowed, their identity and the duties they are authorized to perform should be made known to the State Animal Health Official.

Response: We believe commenters have valid concerns about the use of authorized assistants, the possibility that some States or foreign governments may not accept signatures of authorized assistants, and the liability of accredited veterinarians for actions by their authorized assistants. We are deleting all language in the regulations that would have allowed use of authorized assistants.

Comment: The requirement in § 161.3(a) that an accredited veterinarian must personally observe an animal within 24 hours prior to signing health documents concerning the animal is unworkable. Due to irregular schedules for moving animals and the fact that obtaining laboratory test results often takes 2 to 5 days, it is often impossible for accredited veterinarians to sign documents within 24 hours of observing the animal.

Response: We agree that requiring the veterinarian to observe an animal within 24 hours prior to signing a health document may impose an unworkably short time requirement. However, we also think it is important to keep the intervening period reasonably short, to assure the timeliness of the health certification. We are changing the time period from 24 hours to 7 days, a time period requested by several commenters.

Comment: In § 161.3(e) the phrase "an accredited veterinarian shall identify or supervise the identification of reactor animals" could allow persons acting under instructions from an accredited veterinarian to tag or brand animals without the presence of the accredited veterinarian. The accredited veterinarian should be physically present to supervise identification of reactor animals.

Response: We agree, and are making the requested change to the language of § 161.3(e).

Comment: The requirement in § 161.3(i) that "An accredited veterinarian shall not use or dispense in any manner, any pharmaceutical, chemical, vaccine or serum, or other biological product authorized for use under any Federal regulation or cooperative disease eradication program, in contravention of any Federal or State statute or regulation * * *" places veterinarians in an unrealistic position. The present wording conflicts with permissive extra-label use of pharmaceuticals under the Food and Drug Administration's compliance policy guide, which addresses use of products to treat conditions for which labeled products are ineffective or unreliable. That accepted, permissive use is technically in violation of present legislation and would, therefore, be in violation of this provision of the accreditation regulations. The policy conflict should be resolved between Federal agencies with overlapping authority regarding pharmaceutical products, but in the meantime accredited veterinarians should not be encouraged by one agency to use products in appropriate conditions not covered by the label, and disciplined by another agency for doing so.

Response: The issue of dispensing products in accordance with label and other legal requirements is complex and involves overlapping agency responsibilities, as the commenters noted. We hope that coordination among agencies will reduce confusion in this area and provide clear guidance without conflicts in the future. Some cases concerning whether use of a product is legal and appropriate will doubtless have to be settled on a case-by-case basis by the appropriate authorities. To ensure that accredited veterinarians are able to use products in a way consistent with the full context of applicable requirements, we are changing the language in § 161.3(i) to read that accredited veterinarians shall not use or dispense such products "in contravention of applicable Federal or State statutes, regulations, and policies."

Comment: Section 161.3(k) permits any Veterinary Services veterinarian to allow an accredited veterinarian to issue an export certificate without including laboratory test results, if the Veterinary Services veterinarian agrees to add the results at a later date. Since a particular Veterinary Services veterinarian may not be accessible to add the results when they are available or needed, this section should hold the Veterinarian-in-Charge responsible for authorizing cases where an accredited veterinarian may issue such incomplete export certificates, and for seeing that the test results are added to the certificate when they are available.

Also, this provision would work better if the fact that lab results were delayed is recorded on an attachment to the export certificate, rather than on the certificate itself. Such an attachment could be removed when the results are added, reducing the possibility for confusion about test results when the certificate is examined in the destination country.

Response: We agree that the Veterinarian-in-Charge is the appropriate person to hold responsible for allowing export certificates to be issued with laboratory test results to be added at a later date. We also agree that a delay in obtaining lab results should be recorded on a removable attachment to the export certificate. We are making the requested changes to § 161.3(k).

Comment: Section 161.4(b) states "Accreditation shall be automatically terminated when an accredited

veterinarian is not licensed to practice veterinary medicine in at least one State." This should be modified to make it explicit that accreditation will be terminated if the veterinarian's license to practice is revoked by the State in which the veterinarian performs accredited duties.

Response: Depending on the circumstances of the case, revocation of a veterinarian's license in one State may or may not result in action under part 162 to revoke the veterinarian's accreditation on a national basis. If the basis for revoking the license involved violation of the "Standards for Accredited Veterinarian Duties" contained in § 161.3, such action would ensue. However, the regulations also state in § 161.2(a)(2)(ii) that a veterinarian must be licensed in the State in which he or she performs accredited duties. To emphasize this point, we are adding a new paragraph (c) to § 161.1, "Statement of purpose; performance of accredited duties in different States." This new paragraph reads as follows: "An accredited veterinarian may not perform accredited duties in a State in which the accredited veterinarian is not licensed or legally able to practice veterinary medicine."

Comment: Section 162.12(d) states that "Issuance of three or more letters of dismissal citing incidents of minor violations by an accredited veterinarian may be cause for more severe action under this section and § 161.4." There should be some time concerning the three violations to preclude action against, for example, a veterinarian who accumulates two letters of dismissal in his or her first year of practice and a third 20 years later, with 19 years of exemplary service between.

Response: We have reconsidered the proposal that issuance of three or more letters of dismissal could cause more severe action to be instituted against an accredited veterinarian. The regulations are designed to institute disciplinary actions based on individual violations of the standards, not on any particular pattern of past minor violations that were resolved under the regulations. Under part 162, if the Administrator has reason to believe an accredited veterinarian has not complied with the standards, the particulars of the alleged violation are investigated. If the accredited veterinarian alleged to have violated the standards has received a letter of dismissal in the past citing violations relevant to the alleged violation currently under investigation, that fact would be considered in determining the appropriate sanction for the current violation. However, we have concluded that there is no rational basis for a strict mechanical formula stating that a fixed number of such letters of dismissal, over either a fixed or indefinite time period, should lead to any particular disciplinary action under part 162. Therefore, we are removing the sentence in § 162.12(d) that reads "Issuance of three or more letters of dismissal within a five year period citing incidents of minor violations by an accredited veterinarian may be cause for more severe action under this section and § 161.4."

Comment: The proposal seems to greatly reduce State authority over and involvement in the accreditation program. The accreditation program should be a cooperative Federal-State program that meets the needs of both participants. The proposal limits the State to "advisory" participation in a number of areas where State participation should be fully equal to Federal participation. In particular, veterinarians should be accredited only after they are recommended by the State, and States should be involved in suspension or revocation actions; the State should participate in all orientations and share control of their content with APHIS; the State should be authorized to provide instructions directly to accredited veterinarians on how to follow procedures and complete forms involved in State or State-Federal cooperative programs, and accredited veterinarians should report cases of communicable animal disease to the State as well as the APHIS.

Response: It is not our intention to reduce State involvement in ensuring that the veterinary accreditation program successfully meets its established goals of assisting Federal and Federal-State cooperative animal health programs. We rely on the professionalism and expertise of State personnel, and their more detailed knowledge of local veterinary practitioners and animal industry conditions. We expect the State advice and participation will prove invaluable with regard to determining whether to accredit individual veterinarians, designing orientation programs, developing additional guidance and procedures for accredited veterinarians, and investigating violations of the "Standards for Accredited Veterinarian Duties" contained in § 161.3.

We are modifying several sections of the regulations to clarify how we expect to rely on State participation. The sections dealing with orientations have been changed to state that State officials will be invited to participate in developing orientation materials and conducting orientations. Section 161.3(e) has been changed to state that tagging or identification of animals will be performed in accordance with instructions issued by the Veterinarian-in-Charge for Federal animal health programs, and instructions issued by the Veterinarian-in-Charge or the State Animal Health Official for cooperative Federal-State programs. Section 161.3(f) has been changed to state that communicable disease cases must be reported to the Veterinarian-in-Charge and the State Animal Health Official. The section on informal conferences already states that the State Animal Health Official will be invited to attend each informal conference called by the Veterinarian-in-Charge. As noted above, § 161.2(b), dealing with reaccreditation, has been changed to make it explicit that the Veterinarian-in-Charge, when evaluating a request for reaccreditation, shall consider the recommendations of the State Animal Health Official in making a decision.

We are not giving States exclusive or veto authority in any area of the regulations, such as whether an applicant will be accredited. Although we will carefully weigh any advice States present regarding these types of program decisions, the fact remains that veterinary accreditation is a program implemented by Federal regulation, and a Federal agency is the proper ultimate decisionmaking authority for the program.

Comment: One State agriculture agency asked that implications of Executive Order 12612, "Federalism," be explained with regard to the proposed rule, and contended that the proposal was not consistent with the Executive Order's charges to grant States the maximum possible administrative discretion and to avoid encroaching upon authority reserved to States.

Response: Executive Order 12612 instructs Federal agencies not to take actions that exceed the powers enumerated for the Federal government in the Constitution, and not to unnecessarily preempt State law or preclude States from developing policies and taking actions at their discretion. The proposed changes to the veterinary accreditation program do not raise Federalism implications in terms of the Executive Order. The regulations address how a Federal agency will conduct operations of a Federal program, and do not preclude States from developing policies or exercising their authority to involve veterinarians in any programs developed by a State. States are free to pass laws or implement regulations for the

participation of veterinarians in State animal health programs. However, our regulations do not require accredited veterinarians to participate in purely State programs. State law, not Federal regulation, is the proper venue for implementing and enforcing State programs. Our regulations do not allow States to rely on Federal regulations to implement or enforce State programs that do not have a cooperative Federal component, and we believe this is an appropriate division of responsibility.

Comment: There should be an expiration date on accreditation. It should be renewable at intervals, for example every 5 or 10 years. This would provide a mechanism for removing retired and deceased veterinarians from the national list as well as a mechanism for updating information about them.

Response: We examined this option while developing the regulations, and concluded that it would place an unacceptable paperwork burden on accredited veterinarians to require them to reapply regularly. This system would also place an unmanageable burden on APHIS recordkeeping and procedures, which would have to be redesigned to track the exact time that thousands of veterinarians have been accredited. We would have to contact accredited veterinarians individually if they fail to reapply on time, and develop new standards and procedures for what action to take when they fail to reapply, or reapply late.

We believe the most practical way to keep the national list current is for APHIS to conduct a mass mailing to accredited veterinarians from time to time. This mailing will include an enclosure that each accredited veterinarian must return to APHIS if the individual wishes to remain in accredited status. Before APHIS conducts such a mailing, any information collection or recordkeeping requirements associated with it will be submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Comment: Informal conferences should not be held by telephone. Violations are serious matters, and requiring the alleged violator to travel to an office for a face-to-face conference with Federal and State officials reinforces the seriousness of violations and will help reduce their number.

Response: We agree. After re-examining the investigation and adjudication process, we conclude that if telephone discussions with those involved in an alleged violation have a place in the process, that place would be before the informal conference stage, while the Veterinarian-in-Charge is still determining whether there is reason to believe that the accredited veterinarian has not complied with the "Standards for Accredited Veterinarian Duties" contained in § 161.3. Therefore, we have removed from § 162.12 the sentence that reads "At the discretion of the Veterinarian-in-Charge, informal conferences may be held by telephone."

In addition to the changes discussed above, we have also made minor, nonsubstantive changes for clarity.

Effective Date

Pursuant to the provisions of 5 U.S.C. 553, we find good cause for making this rule effective less than 30 days after publication in the **Federal Register**. This is a substantive rule which relieves a restriction that limits accreditation to veterinarians who have passed the written examination required by the former regulations. Immediate implementation of this rule will prevent a great deal of unnecessary work by schools of veterinary medicine, which would otherwise have to prepare to conduct this year's written examination for veterinary students.

Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for making this rule effective upon publication.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This amendment establishes accreditation on a national rather than a State basis. It also removes a test currently required for accredited veterinarians, requires an orientation program for each accredited veterinarian, and specifies standards for performance of certain services by accredited veterinarians

There are currently approximately 45,000 accredited veterinarians practicing in the United States. Approximately 2,000 new accredited veterinarians, mostly recent graduates, are added to the system each year. The degree to which their income depends on performing accredited work varies greatly within this population, and we have little reliable information in this area. It appears that accredited veterinarians may be divided into three groups in terms of the income they derive from performing accredited work. A small minority of accredited veterinarians derive most of their income from accredited work. A large minority of accredited veterinarians derive only a small portion of their income from accredited work. The largest group in the accredited veterinarian population derives a significant but not major portion of their income from accredited work. (Another minor group, irrelevant to economic considerations under the proposed rule, is accredited but receives no income from performing accredited work.)

The changes made by this final rule should not significantly affect the number of accredited veterinarians, the expenses they accrue to become accredited, or the income they derive from performing accredited work. The changes essentially affect application procedures without imposing any significant new application costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Following adoption of this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings are required before the suspension or revocation of a veterinarian's accreditation can be challenged in court.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR, part 3015, subpart V.)

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in

this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579-0032.

List of Subjects

9 CFR Parts 160

Veterinarians.

9 CFR Part 161

Reporting and recordkeeping requirements.

9 CFR Part 162

Administrative practice and procedures, Veterinarians.

Accordingly, subchapter J of 9 CFR chapter I is revised to read as follows:

SUBCHAPTER J—ACCREDITATION OF VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

Parts

PART 160—DEFINITION OF TERMS

Authority: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f, 612, and 613; 7 CFR 2.17, 2.51, and 371.2(d).

§ 160.1 Definitions.

For the purposes of this subchapter the following words, phrases, names and terms shall be construed, respectively, to mean:

Accredited Veterinarian.[1] A veterinarian approved by the Administrator in accordance with the provisions of part 161 of this subchapter to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator of the Animal and Plant Health Inspection Service or any individual authorized to act for the Administrator.

Animal, animals. All animals except humans, including but not limited to cattle, sheep, goats, other ruminants, swine, horses, asses, mules, zebras, birds, and poultry.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service, United States Department of Agriculture.

APHIS. The Animal and Plant Health Inspection Service.

Examine, examination. Physical study of an individual animal that enables an accredited veterinarian to determine if any abnormality in physical condition or bodily function is suggestive of clinical signs of communicable disease.

Inspect, inspection. Visual study of the physical appearance, physical condition, and behavior of animals (singly or in groups) that enables an accredited veterinarian to determine whether any abnormality in physical condition or bodily function is evident.

Official certificate, form, record, report, tag, band, or other identification. Means any certificate, form, record, report, tag, band, or other identification, prescribed by statute or by regulations issued by the Administrator, for use by an accredited veterinarian performing official functions under this subchapter.

State. Any State, the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands of the United States, and any other territory or possession of the United States.

State Animal Health Official. The State animal health official who is responsible for the livestock and poultry disease control and eradication programs of a State.

Veterinarian-in-Charge. The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official work of APHIS in a State or group of States.

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

Sec.

Authority: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f, 612, and 613; 7 CFR 2.17, 2.51, and 371.2(d).

§ 161.1 Statement of purpose; performance of accredited duties in different States.

(a) This subchapter concerns a program administered by APHIS to accredit veterinarians and thereby authorize them to perform, on behalf of APHIS, certain activities specified in this chapter. This program is intended to ensure that an adequate number of qualified veterinarians are available in the United States to perform such activities.

(b) If an accredited veterinarian wishes to perform accredited duties in a State other than the State for which the veterinarian has completed an orientation in accordance with § 161.2(a)(4), the accredited veterinarian shall so inform the Veterinarian-in-Charge of the new State. The Veterinarian-in-Charge of the new State may require the accredited veterinarian to complete, prior to performing any accredited duties in the new State, an orientation in animal health procedures and issues relevant to the new State. The Veterinarian-in-Charge shall review the content of each such orientation and shall approve its use after determining that it includes adequate information about animal health agencies, regulatory requirements, administrative procedures, and animal disease problems in the new State, to prepare an accredited veterinarian from another State to perform accredited duties in the new State. The Veterinarian-in-Charge shall also give the State Animal Health Official of the new State an opportunity to review the contents of the orientation, and invite him or her to participate in developing orientation materials and conducting the orientation.

(c) An accredited veterinarian may not perform accredited duties in a State in which the accredited veterinarian is not licensed or legally able to practice veterinary medicine.

§ 161.2 Requirements and application procedures for accreditation.

(a) *Initial accreditation.* A veterinarian may apply for accreditation by completing an application for accreditation on Form 1–36A, "Application for Veterinary Accreditation," including certification that the applicant is able to perform the tasks listed in paragraph (d) of this section, and submitting it to the Veterinarian-in-Charge in the State where he or she wishes to perform accredited duties.

(1) Completed Forms 1–36A received by a Veterinarian-in-Charge shall be reviewed by the State Animal Health Official for the State in which the veterinarian wishes to perform accredited duties. Within 14 days after receiving an application, a State Animal Health Official shall either endorse the application or send a written statement to the Administrator explaining why it was not endorsed; but if the State Animal Health Official fails to take one

[1] The provisions of subchapters B, C, and D of this chapter authorize Federal and State veterinarians and accredited veterinarians to perform specified functions. Full-time Federal (including military) and State employed veterinarians are authorized to perform such functions, pursuant to delegation of authority by the Administrator or cooperative agreements without specific accreditation under the provisions of this subchapter.

of these actions within 14 days, the Veterinarian-in-Charge shall proceed to review the application. The Administrator will review the application and the written statement, if any, and determine whether the applicant meets the requirements for accreditation contained in this part.

(2) The Administrator is hereby authorized to accredit a veterinarian when he or she determines that:

(i) The veterinarian is a graduate with a Doctorate of Veterinary Medicine or an equivalent degree (any degree that qualifies the holder to be licensed by a State to practice veterinary medicine) from a college of veterinary medicine;

(ii) The veterinarian is licensed or legally able to practice veterinary medicine in the State in which the veterinarian wishes to perform accredited duties. APHIS will confirm licensing status of the applicant by contacting the State board of veterinary medical examiners or any similar State organization that maintains records of veterinarians licensed in a State; and,

(iii) The veterinarian has completed an orientation program approved by the Veterinarian-in-Charge for the State in which the veterinarian wishes to practice, and upon completion of the orientation, has signed a written statement listing the date and place of orientation, the subjects covered in the orientation, and any written materials provided to the veterinarian at the orientation. The Veterinarian-in-Charge shall also give the State Animal Health Official an opportunity to review the contents of the orientation, and invite him or her to participate in developing orientation materials and conducting the orientation. The orientation program shall include the following topics:

(A) Federal animal health laws, regulations, and rules;

(B) Interstate movement requirements for animals;

(C) Import and export requirements for animals;

(D) USDA animal disease eradication and control programs;

(E) Laboratory support in confirming disease diagnoses;

(F) Ethical/Professional responsibilities of an accredited veterinarian; and,

(G) Animal health procedures, issues, and information resources relevant to the State in which the veterinarian wishes to perform accredited duties.

(b) *Reaccreditation.* A veterinarian whose accreditation has been revoked may apply for reaccreditation when the revocation has been in effect for not less than two years by completing an application for reaccreditation on Form 1–36A, "Application for Veterinary Accreditation", and submitting it to the Veterinarian-in-Charge of the State or area where he or she wishes to perform accredited work.

(1) Completed Forms 1–36A received by a Veterinarian-in-Charge shall be reviewed by the State Animal Health Official for the State in which the veterinarian wishes to perform accredited duties. Within 14 days after receiving an application, a State Animal Health Official shall either endorse the application or send a written statement to the Administrator explaining why it was not endorsed; but if the State Animal Health Official fails to take one of these actions within 14 days, the Veterinarian-in-Charge shall proceed to review the application. The Administrator will review the application and the written statement, if any, and determine whether the applicant meets the requirements for reaccreditation contained in this part.

(2) The Administrator is hereby authorized to reaccredit a veterinarian when he or she determines that:

(i) The veterinarian is licensed or legally able to practice veterinary medicine in the State in which the veterinarian wishes to perform accredited duties;

(ii) The veterinarian has completed a reaccreditation orientation program approved by the Veterinarian-in-Charge for the State in which the veterinarian wishes to practice, and upon completion of the orientation, has signed a written statement listing the date and place of orientation, the subjects covered in the orientation, and any written materials provided to the veterinarian at the orientation. The Veterinarian-in-Charge shall also give the State Animal Health Official an opportunity to review the contents of the reaccreditation orientation, and invite him or her to participate in developing orientation materials and conducting the orientation. The orientation program shall include topics addressing the subject areas which led to loss of accreditation for the applicant, and subject areas which have changed since the applicant lost accreditation; and,

(iii) The professional integrity and reputation of the applicant support a conclusion that the applicant will faithfully fulfill the duties of an accredited veterinarian in the future. In making this conclusion, the Administrator shall review all available information about the applicant, including recommendations of the State Animal Health Official, and shall consider:

(A) Criminal conviction records adversely reflecting on the honesty or integrity of the applicant with regard to the performance or nonperformance of veterinary medical duties;

(B) Official records of the applicant's actions participating in Federal, State, or local veterinary programs;

(C) Judicial determinations in civil litigation adversely reflecting on the integrity of the applicant; and

(D) Any other evidence reflecting on the professional integrity and reputation of the applicant.

(c) *Reinstatement after suspension.* A veterinarian whose accreditation has been suspended for less than 6 months (other than a summary suspension that is changed to a revocation as a result of an adjudicatory proceeding) will be automatically reinstated as an accredited veterinarian upon completion of the suspension. A veterinarian whose accreditation has been suspended for 6 months or more must complete a reaccreditation orientation program in accordance with paragraph (b)(2)(ii) of this section before accreditation will be reinstated.

(d) *Tasks which applicants for accredited status must be able to perform.* Applicants for accredited status must be able to:

(1) Perform physical examinations of individual animals, and visually inspect herds or flocks, to determine whether the animals are free from any clinical signs suggestive of communicable disease;

(2) Recognize the common breeds of livestock so as to be able to record breed information on official documents;

(3) Recognize brucellosis tattoos and calfhood vaccination tags, and determine the state of origin of eartags, to properly identify animals in interstate commerce;

(4) Estimate the age of livestock using a dental formula;

(5) Apply an eartag, tattoo, backtag, and legband;

(6) Certify the disease status of a poultry flock with regard to disease caused by *Salmonella enteritidis,* psittacosis or ornithosis, and velogenic viscerotropic Newcastle disease, by evaluating records of the flock's participation in and testing by Federal and State poultry health programs;

(7) Properly complete certificates for domestic and international movement of animals;

(8) Apply and remove official seals;

(9) Perform a necropsy on livestock;

(10) Recognize clinical signs and lesions of exotic animal diseases;

(11) Plan a disease control strategy for a livestock unit;

(12) Vaccinate for brucellosis and fill out the vaccination certificate;

(13) Draw and ship blood for testing;

(14) Perform a caudal fold test for tuberculosis;

(15) Develop appropriate cleaning and disinfection plans to control communicable livestock disease spread; and

(16) Explain basic principles for control of diseases for which APHIS or APHIS-State cooperative programs exist, such as brucellosis, pseudorabies, and tuberculosis.

(Approved by the Office of Management and Budget under control number 0579-0032.)

§ 161.3 Standards for accredited veterinarian duties.

An accredited veterinarian shall perform the functions of an accredited veterinarian only in a State in which the accredited veterinarian is licensed or legally able to practice veterinary medicine. An accredited veterinarian shall perform the functions of an accredited veterinarian and carry out all responsibilities under applicable Federal programs and cooperative programs subject to direction provided by the Veterinarian-in-Charge and in accordance with any regulations and instructions issued to the accredited veterinarian by the Veterinarian-in-Charge, and shall observe the following specific standards:

(a) An accredited veterinarian shall not issue or sign a certificate, form, record or report which reflects the results of any inspection, test, vaccination or treatment performed by him or her, with respect to any animal, unless he or she, within 7 days prior to such signing, has personally observed each animal in a location that allows the accredited veterinarian sufficient space to observe the animal in such a manner as to detect abnormalities related to areas such as, but not limited to, locomotion, body excretion, respiration, and skin conditions. An accredited veterinarian shall examine each animal showing abnormalities, in order to determine whether or not there is clinical evidence compatible with the presence or absence of a communicable disease.

(b) An accredited veterinarian shall not issue or sign any certificate, form, record or report, or permit such a certificate, form, record, or report to be used until, and unless, it has been accurately and fully completed, clearly identifying the animals to which it applies, and showing the dates and results of any inspection, test, vaccination, or treatment the accredited veterinarian has conducted, except as provided in paragraph (c) of this section. The accredited veterinarian shall distribute copies of certificates, forms, records, and reports, according to instructions issued to him or her by the Veterinarian-in-Charge.

(c) An accredited veterinarian shall not issue or sign any certificate, form, record, or report which reflects the results of any inspection, test, vaccination, or treatment performed by another accredited veterinarian, unless:

(1) The signing accredited veterinarian has exercised reasonable care, that is, a standard of care that a reasonably prudent person would use under the circumstances in the course of performing professional duties, to determine that the certificate, form, or report is accurate;

(2) The certificate, form, or report indicates that the inspection, test, vaccination, or treatment was performed by the other accredited veterinarian; identifies the other accredited veterinarian by name; and includes the date and the place where such inspection, test, or vaccination was performed; and,

(3) For a certificate, form, or report indicating results of a laboratory test, the signing accredited veterinarian shall keep a copy of the certificate, form, or report and shall attach to it either a copy of the test results issued by the laboratory, or a written record (including date and participants' names) of a conversation between the signing accredited veterinarian and the laboratory confirming the test results.

(d) An accredited veterinarian shall perform official tests, inspections, treatments, and vaccinations and shall submit specimens to designated laboratories in accordance with Federal and State regulations and instructions issued to the accredited veterinarian by the Veterinarian-in-Charge.

(e) An accredited veterinarian shall identify or be physically present to supervise the identification of reactor animals by tagging or such other method as may be prescribed in instructions issued to him or her by the Veterinarian-in-Charge or by a State Animal Health Official through the Veterinarian-in-Charge.

(f) An accredited veterinarian shall immediately report to the Veterinarian-in-Charge and the State Animal Health Official all diagnosed or suspected cases of a communicable animal disease for which a PHIS has a control or eradication program in 9 CFR chapter I, and all diagnosed or suspected cases of any animal disease not known to exist in the United States as provided by § 71.3(b) of this chapter.

(g) While performing accredited work, an accredited veterinarian shall take such measures of sanitation as are necessary to prevent the spread of communicable diseases of animals by the accredited veterinarian.

(h) An accredited veterinarian shall keep himself or herself currently informed on Federal and State regulations that are provided to him or her by the Veterinarian-in-Charge, or by a State official through the Veterinarian-in-Charge, governing the movement of animals, and on procedures applicable to disease control and eradication programs, including emergency programs.

(i) An accredited veterinarian shall not use or dispense in any manner, any pharmaceutical, chemical, vaccine or serum, or other biological product authorized for use under any Federal regulation or cooperative disease eradication program, in contravention of applicable Federal or State statutes, regulations, and policies.

(j) An accredited veterinarian shall be responsible for the security and proper use of all official certificates, forms, records, reports, tags, bands, or other identification devices used in his or her work as an accredited veterinarian and shall take reasonable care to prevent misuse thereof. An accredited veterinarian shall immediately report to the Veterinarian-in-Charge, the loss, theft, or deliberate or accidental misuse of any such certificate, form, record, report, tag, band, or other identification device.

(k) An accredited veterinarian may issue or sign an origin health certificate for export use pursuant to part 91 of this chapter without including test results from a laboratory, if the Veterinarian-in-Charge has determined that such action is necessary to save time in order to meet an exportation schedule and agrees to add the test results to the certificate at a later time. In such cases, the accredited veterinarian shall state on a removable attachment to the certificate that such test results are to be added by the Veterinarian-in-Charge.

§ 161.4 Suspension or revocation of veterinary accreditation; criminal and civil penalties.

(a) The Administrator is authorized to suspend for a given period of time, or to revoke, the accreditation of a veterinarian when he or she determines that the accredited veterinarian has not complied with the "Standards for Accredited Veterinarian Duties" as set forth in § 161.3 of this part, or, in lieu thereof, to issue a written notice of warning to the accredited veterinarian when the Administrator determines a notice of warning will be adequate to attain compliance with the Standards.

(b) Accreditation shall be automatically terminated when an accredited veterinarian is not licensed or legally able to practice veterinary medicine in at least one State.

(c) Accreditation shall be automatically revoked when an accredited veterinarian is convicted of a crime in either State or Federal court, if such conviction is based on the performance or nonperformance of any act required of the veterinarian in his or her capacity as an accredited veterinarian.

(d) Any accredited veterinarian who knowingly issues or signs a false, incorrect, or mislabeled animal health or inspection certificate, blood sample, official brucellosis vaccination certificate, or official tuberculin test certificate in accordance with this chapter, shall be subject to such civil penalties and such criminal liabilities as are provided by 18 U.S.C. 1001, 21 U.S.C. 117, 122, 127, and 134e, or other applicable Federal statutes. Such action may be in addition to, or in lieu of, suspension or revocation of accredited veterinarian status in accordance with this section.

PART 162—RULES OF PRACTICE GOVERNING REVOCATION OR SUSPENSION OF VETERINARIANS' ACCREDITATION

Subpart A—General

Sec.

Subpart B—Supplemental Rules of Practice

Authority: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f, 612, and 613; 7 CFR 2.17, 2.51, and 371.2(d).

Subpart A—General

§ 162.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in Subpart H of part 1, Subtitle A, Title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings for the revocation or suspension of accreditation of veterinarians (9 CFR parts 160 and 161). In addition, the Supplemental Rules of Practice set forth in subpart B of this part shall be applicable to such proceedings.

Subpart B—Supplemental Rules of Practice

§ 162.10 Summary suspension of accreditation of veterinarians.

In any situation where the Administrator has reason to believe that any veterinarian accredited under the provisions of 9 CFR parts 160 and 161 of this subchapter has not complied with the "Standards for Accredited Veterinarian Duties" set forth in § 161.3 of this subchapter, and deems such action necessary in order to prevent the introduction into the United States or the spread from one State to another of a contagious, infectious, or communicable disease of animals, or to insure that animals intended or offered for export to foreign countries are free from disease, the Administrator may suspend the accreditation of such veterinarian pending final determination in the proceeding, effective upon oral or written notification, whichever is earlier. In the event of oral notification, a written confirmation thereof shall be given to such veterinarian pursuant to § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)) as promptly as circumstances permit. Such suspension shall have no relevance with respect to the final determination in the proceeding.

§ 162.11 Notification.

The Veterinarian-in-Charge shall notify an accredited veterinarian when there is reason to believe that the accredited veterinarian has not complied with the "Standards for Accredited Veterinarian Duties" as contained in § 161.3 of this subchapter. The notification shall be in writing, with a copy to the State Animal Health Official, and shall include a statement of the basis for the belief that the accredited veterinarian has failed to comply with the Standards and shall notify the accredited veterinarian if the Veterinarian-in-Charge has arranged to hold an informal conference to discuss the matter.

§ 162.12 Informal conference.

(a) The Veterinarian-in-Charge, in consultation with the State Animal Health Official and the accredited veterinarian, shall designate the time and place for the holding of an informal conference to review the matter, unless the Veterinarian-in-Charge determines that an informal conference is inappropriate. An informal conference is inappropriate only if the Veterinarian-in-Charge decides to dismiss the case based on available facts, or if civil or criminal charges based on the actions or inactions believed to be in violation of the "Standards for Accredited Veterinarian Duties" contained in § 161.3 of this subchapter are pending against the accredited veterinarian. An informal conference shall include the Veterinarian-in-Charge or his or her representative, the accredited veterinarian, and any other persons the Veterinarian-in-Charge requests to attend due to their involvement in or knowledge of the possible violation. The State Animal Health Official will be invited to attend each informal conference held regarding activities in his or her State.

(b) Prior to, during, or at the conclusion of the informal conference, the Veterinarian-in-Charge may issue a written warning to the accredited veterinarian without further procedure after determining that a warning with appropriate instructions will be adequate to attain compliance with the Standards.

(c) If prior to, during, or at the conclusion of, the informal conference, the accredited veterinarian consents, in writing, to the issuance of an order revoking or suspending his or her accreditation for a specified period of time, in lieu of further procedure, the Veterinarian-in-Charge may issue such a consent order without further procedure.

(d) If prior to, during, or after the informal conference, but prior to the issuance of a formal complaint, the accredited veterinarian is found not to have violated the regulations, the Veterinarian-in-Charge will issue a letter dismissing the case, and provide a copy of the letter to the accredited veterinarian and to the State Animal Health Official. Prior to, during, or after the informal conference, the Veterinarian-in-Charge may issue a letter identifying actions of the accredited veterinarian that were minor violations of the Standards, instructing the accredited veterinarian in proper procedures, and admonishing the accredited veterinarian to use greater care in performing these procedures in the future. Issuance of three or more letters of dismissal within a 5-year period citing incidents of minor violations by an accredited veterinarian may be cause for more severe action under this section and § 161.4.

§ 162.13 Formal complaint.

If a consent order has not been issued, or if, after an informal conference, the Veterinarian-in-Charge has not issued a letter of dismissal or letter of warning to the accredited veterinarian, a formal complaint may be issued by the Administrator in accordance with

§ 1.135 of the Uniform Rules of Practice (7 CFR 1.135).

Done in Washington, DC, this 17th day of November 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-28318 Filed 11-20-92; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 92-ANM-3]

Alteration of Jet Routes; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: An error was discovered in the description of the final rule for Jet Route J-143 that was published in the **Federal Register** on October 14, 1992 (57 FR 46976), Airspace Docket No. 92-ANM-3. In the description for J-143 the state location identified for the Klickitat VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) was in error; the actual location of the Klickitat VORTAC is in the State of Washington and not in the State of Oregon. This action corrects that error.

EFFECTIVE DATE: 0901 U.T.C., December 10, 1992.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9230.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 92-24906, Airspace Docket No. 92-ANM-3, published on Wednesday, October 14, 1992 (57 FR 46976), changed the name and identification of three VORTAC's listed in the legal descriptions of five jet routes in the State of Oregon. An error was discovered in the actual location of the Klickitat VORTAC in the description of J-143. The Klickitat VORTAC is actually located in the State of Washington and not in the State of Oregon. This action corrects that error

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the publication in the **Federal Register** on October 14, 1992 (57 FR 46976; **Federal Register** Document 92-24906), and the description in FAA Order 7400.7, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

Section 71.1 [Corrected]

J-143 [Corrected]

1. On page 46977, in the first column, the description for J-143 is corrected by removing "Klickitat, OR" and inserting in its place "Klickitat, WA."

Issued in Washington, DC, on November 10, 1992.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 92-28343 Filed 11-20-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 92-ANM-2]

Alteration of VOR Federal Airways; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: Several errors were discovered in the descriptions of the final rule for VOR Federal Airways V-25, V-112, V-182, V-287, V-497, V-520, and the domestic low altitude reporting points that was published in the **Federal Register** on October 14, 1992 (57 FR 46977), Airspace Docket No. 92-ANM-2. In the descriptions for V-25, V-112, V-497, V-520, and the domestic low altitude reporting points, the actual location of the Klickitat VORTAC is in the State of Washington and not in the State of Oregon. In the description for V-287 the radial between INT Olympia and Paine, WA, should be 256° and not for 254°. This action corrects those errors.

EFFECTIVE DATE: 0901 u.t.c., December 10, 1992.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9230.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 92-24907, Airspace Docket No. 92-ANM-2, published on Wednesday, October 14, 1992 (57 FR 46977), changed the name and identification of four VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) listed in the legal descriptions of Domestic VOR Federal airways, Domestic low altitude reporting points, and Domestic high altitude reporting points in the States of Oregon and Idaho. An error was discovered in the radial between INT Olympia and Paine, WA, in the description for V-287. The radial between INT Olympia and Paine, WA, should have been 256° and not 254°; also an error was discovered in the actual location of the Klickitat VORTAC in the descriptions of V-25, V-112, V-182, V-497, V-520, and the domestic low altitude reporting points. The Klickitat VORTAC is actually located in the State of Washington and not in the State of Oregon. This action corrects those errors.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the publication in the **Federal Register** on October 14, 1992 (57 FR 46977; **Federal Register** Document 92-24907), and the corresponding descriptions in FAA Order 7400.7, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

Section 71.1 [Corrected]

V-25 (corrected]

1. On page 46978, in the first column, the description for V-25 is corrected by removing "Klickitat, OR" and inserting in its place "Klickitat, WA."

V-112 [Corrected]

2. On page 46978, in the first column, the description for V-112 is corrected by removing "Klickitat, OR" and inserting in its place "Klickitat, WA."

V-182 [Corrected]

3. On page 46978, in the second column, the description for V-182 is corrected by removing "Klickitat, OR" and inserting in its place "Klickitat, WA."

V-287 [Corrected]

4. On page 46978, in the third column, the description for V-287 is corrected by removing "and Paine, WA, 254° radials" and inserting in its place "and Paine, WA, 256° radials."

V–497 [Corrected]

5. On page 46978, in the third column, the description for V–497 is corrected by removing "Klickitat, OR" and inserting in its place "Klickitat, WA."

V–520 [Corrected]

6. On page 46978, in the third column, the description for V–520 is corrected by removing "Klickitat, OR" and inserting in its place "Klickitat, WA."

The Dalles, OR [Corrected]

7. On page 46978, in the third column, the Domestic Low Altitude Reporting Point, "The Dalles, OR," is corrected by removing "Klickitat, OR" and inserting in its place "Klickitat, WA".

Klickitat, OR [Corrected]

8. On page 46978, in the third column, the Domestic Low Altitude Reporting Point, "Klickitat, OR," is corrected by removing "Klickitat, OR" and inserting in its place "Klickitat, WA."

Issued in Washington, DC, on November 10, 1992.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 92–28342 Filed 11–20–92; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 92–AAL–1]

Alteration of VOR Federal Airways; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: An error was discovered in the description of the final rule for VOR Federal Airway V–482 that was published in the **Federal Register** on October 7, 1992 (57 FR 46089), Airspace Docket No. 92–AAL–1. In the description for V–482, a change was noted in the magnetic variation that affected the radial between the intersection of Johnstone Point, AK, and Gulkana, AK, by one degree. The radial in the description of V–482 should be 033°, not 032°. This action corrects that radial.

EFFECTIVE DATE: 0901 u.t.c., December 10, 1992.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9230.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 92–24352, Airspace Docket No. 92–AAL–1, published on Wednesday, October 7, 1992 (57 FR 46089), altered and designated Alaskan VOR Federal Airways in the State of Alaska. A change was noted in the magnetic variation that affected the radial in the description of V–482 by one degree between the intersection of Johnstone Point, AK, and Gulkana, AK. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the publication in the **Federal Register** on October 7, 1992 (57 FR 46089; **Federal Register** Document 92–24352), and the corresponding description in FAA Order 7400.7, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

Section 71.1 [Corrected]

V–482 [Corrected]

1. On page 46089, in the third column, the description for V–482 is corrected by removing "032°" and inserting in its place "033°."

Issued in Washington, DC, on November 10, 1992.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 92–28344 Filed 11–20–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 422

RIN 0960–AD06

Earnings and Benefit Statements

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: We are revising our rules on furnishing statements of earnings and benefit information to individuals. We explain when we will furnish an individual, upon request, a statement of his or her earnings shown on our records, an estimate of the monthly benefits potentially payable to the individual and his or her dependents and survivors, and a description of benefits payable under medicare. These regulations also reflect the requirements of section 10308 of the Omnibus Budget Reconciliation Act of 1989 (OBRA 1989) and section 5111 of OBRA 1990.

EFFECTIVE DATE: These rules are effective on November 23, 1992.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–8471.

SUPPLEMENTARY INFORMATION: Section 205(c)(2)(A) of the Social Security Act (the Act) requires the Secretary of Health and Human Services (the Secretary) to inform, upon request, an individual, his survivor or legal representative, or the legal representative of his estate of the amounts of wages and self-employment income of the individual and the periods during which the wages were paid and the self-employment income derived. The information provided is the information that is shown on the Secretary's records at the time the request is received.

For many years, our established procedure under this statutory provision, as explained in § 404.810 and § 422.125, was to furnish, upon request, a statement of the earnings credited to an individual's social security earnings record and his or her insured status. In 1988, we began furnishing a more detailed statement called a Personal Earnings and Benefit Estimate Statement. This statement showed, among other things, the individual's earnings that were taxed for social security each year, the number of social security credits, i.e., quarters of coverage the individual has earned, and an estimate of the social security and medicare hospital insurance taxes paid by the individual. This statement also provided estimates of monthly social security benefits for the individual and his or her family, and information about social security and medicare benefits.

OBRA 1989, as amended by OBRA 1990, added section 1143 to the Act. Section 1143 requires that we take several actions. First, by October 1, 1990, the statute requires us to provide, upon the request of an "eligible individual," a statement that contains certain information as shown by our records at the date of the request. Section 1143 defines an "eligible individual" as one who has a social security number, has attained age 25 or over, and has wages or net earnings from self-employment. The statement we provide under section 1143 of the Act is to contain the following information

as shown by our records on the date of the request:

1. The amount of wages paid to and self-employment income derived by the individual;

2. An estimate of the aggregate of the employee and self-employment contributions of the individual for old-age, survivors', and disability insurance benefits;

3. A separate estimate of the aggregate of the employee and self-employment contributions of the individual for medicare hospital insurance benefits; and

4. An estimate of the potential monthly old-age, disability, dependents', and survivors' insurance benefits payable on the individual's earnings record and a description of the benefits payable under medicare.

Second, section 1143 of the Act provides that by not later than September 30, 1995, we are to furnish this statement to each "eligible individual" who has attained age 60 by October 1, 1994, has social security earnings, is not receiving social security benefits, and for whom we can determine a current mailing address by methods we consider appropriate. In each fiscal year from 1995 through 1999, we will send this statement to each "eligible individual" who has attained age 60 during that fiscal year, has social security earnings, is not receiving social security benefits, and for whom we can determine a current mailing address by methods we consider appropriate. We are to mail these statements without requiring a request from the individual. We will also advise individuals receiving these statements that the information will be updated annually and is available upon request.

Third, section 1143 of the Act states that beginning not later than October 1, 1999, we shall provide statements containing the above information on an annual basis to each "eligible individual" who has social security earnings, is not receiving social security benefits, and for whom we can determine a current mailing address by methods we consider appropriate. For persons who have not attained age 50, the statement we send will contain either an estimate of monthly retirement benefits or a description of the social security benefits, including dependents' benefits, that are available upon retirement.

We are including in these regulations those provisions of section 1143 that were effective on October 1, 1990. The provisions that we must implement by September 30, 1995, and beginning October 1, 1999, will be added by subsequent amendments to the regulations. Under these regulations, the statement of earnings and the benefit estimate we send in accordance with section 1143 of the Act is essentially the same as the Personal Earnings and Benefit Estimate Statement we began furnishing in 1988. The notable difference is that pursuant to section 1143, the new statements show social security contributions separately from medicare hospital insurance contributions.

In these regulations, we are updating our existing rules to explain who may request a statement of earnings and a benefit estimate, how the request should be made, the information we will need to provide the statement, and the information that will be shown on the statement. Section 1143 of the Act states that only persons who have a social security number, have attained age 25 or older, have wages or net earnings from self-employment, and who request this statement are to be given a statement that includes all the information set out in that section. However, under these regulations, we will also provide this information to persons under age 25 who request it and who have a social security number and wages or net earnings from self-employment that are subject to social security taxes.

In these regulations, we are revising § 404.810 to describe the right to obtain a statement of earnings and a benefit estimate, how to request it, and the information we need to comply with the request. In a new § 404.811, we list the information that we will furnish in the statement of earnings and benefit estimate. Further, we are revising § 422.125 so that most of the rules on statements of earnings and benefit estimates will be located in Subpart I of part 404. This revision will result in rules that are clearer and easier to use.

On December 6, 1991, we published proposed rules in the **Federal Register** at 56 FR 63893 with a 60-day comment period. We received no comments. We are, therefore, publishing these final rules essentially unchanged from the proposed rules. We are, however, adding a sentence to § 404.810(b) to clarify that a request for a statement of earnings and benefit estimate not made on the prescribed form will be accepted if it is in writing, is signed and dated, and contains all the information requested on the prescribed form. Thus, the regulation will reflect our practice to accept such requests without use of the prescribed form. In addition, we are making some minor technical and editorial changes of no substantive effect.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because it does not meet any of the threshold criteria for a major rule. Because we currently issue earnings information and benefit estimates to individuals upon request, neither section 10308 of OBRA 1989, nor section 5111 of OBRA 1990, nor these regulations will impose any additional program or administrative costs at this time. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities since these regulations affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations contain reporting requirements in section 404.810(b). However, we have obtained clearance from the Office of Management and Budget (OMB) to collect this information, using form SSA-7004 (Request for Earnings and Benefit Estimate Statement), OMB No. 0960-0466.

(Catalog of Federal Domestic Assistance Program Nos. 93.802 Social Security-Disability Insurance; 93.803 Social Security-Retirement Insurance; 93.805 Social Security-Survivors Insurance; 93.773 Medicare-Hospital Insurance)

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Administrative practice and procedure, Freedom of information, Organization and functions (Government agencies), Social Security.

Dated: June 11, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: August 4, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, we are amending subpart I of part 404 of 20 CFR chapter III and subpart B of part 422 of 20 CFR chapter III as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-_____)

1. The authority citation for subpart I of part 404 is revised to read as follows:

Authority: Secs. 205(a), (c)(1), (c)(2)(A), (c)(4), (c)(5), (c)(6), and (p), 1102 and 1143 of the Social Security Act; 42 U.S.C. 405(a), (c)(1), (c)(2)(A), (c)(4), (c)(5), (c)(6), and (p), 1302, and 1320b–13.

2. Section 404.810 is revised to read as follows:

§ 404.810 How to obtain a statement of earnings and a benefit estimate statement.

(a) *Right to a statement of earnings and a benefit estimate.* You or your legal representative or, after your death, your survivor or the legal representative of your estate may obtain a statement of your earnings as shown on our records at the time of the request. If you have a social security number and have wages or net earnings from self-employment, you may also request and receive an earnings statement that will include an estimate of the monthly old-age, disability, dependents', and survivors' insurance benefits potentially payable on your earnings record, together with a description of the benefits payable under the medicare program. You may request these statements by writing, calling, or visiting a social security office.

(b) *Contents of request.* When you request a statement of your earnings, we will ask you to complete a prescribed form, giving us your name, social security number, date of birth, and sex. You, your authorized representative or, after your death, your survivor or the legal representative of your estate will be asked to sign and date the form. If you are requesting an estimate of the monthly benefits potentially payable on your earnings record, we will also ask you to give us the amount of your earnings for the last year, an estimate of your earnings for the current year, an estimate of your earnings for future years before your planned retirement, and the age at which you plan to retire, so that we can give you a more realistic estimate of the benefits that may be payable on your record. A request for a statement of earnings and a benefit estimate not made on the prescribed form will be accepted if the request is in writing, is signed and dated by the appropriate individual noted above, and contains all the information that is requested on the prescribed form.

3. Section 404.811 is added to read as follows:

§ 404.811 The statement of earnings and benefit estimate.

(a) *General.* After receiving a request for a statement of earnings and the information we need to comply with the request, we will provide you or your authorized representative a statement of the earnings credited to your record at the time of your request. In addition, we will include estimates of the benefits potentially payable on your record with the statement of earnings. If we are unable to provide all this information, we will explain why we are unable to do so.

(b) *Contents of statement of earnings and benefit estimate.* A statement of your earnings that includes an estimate of the monthly benefits potentially payable on your record will contain the following information:

(1) The social security taxed earnings you have received as shown by our records as of the date of your request;

(2) An estimate of the social security and medicare hospital insurance taxes you have paid as shown on our records as of the date of your request;

(3) The number of credits, i.e., quarters of coverage, not exceeding 40, you have for both social security and medicare health insurance purposes;

(4) The total number of credits, i.e., quarters of coverage, you must have for social security benefits;

(5) An estimate of the monthly old-age, disability, dependents', and survivors' insurance benefits potentially payable on your record;

(6) A description of the benefits payable under the medicare program; and

(7) A statement of your right to request a correction of your earnings record.

PART 422—ORGANIZATION AND PROCEDURES

1. The authority citation for subpart B of part 422 is revised to read as follows:

Authority: Secs. 205, 1102, and 1143 of the Social Security Act; 42 U.S.C. 405, 1302, and 1320b–13.

2. Section 422.125 is amended by revising paragraphs (a) and (b), by removing paragraphs (c) and (d), by redesignating paragraphs (e)–(h) as (c)–(f), and by revising newly designated paragraph (c) to read as follows:

§ 422.125 Statement of earnings; resolving earnings discrepancies.

(a) *Requesting a statement of earnings and estimated benefits.* An individual may obtain a statement of the earnings on his earnings record and an estimate of social security benefits potentially payable on his record by writing, calling, or visiting any social security office. An individual may obtain this information by completing the proper form. See § 404.810(b) for the information the Social Security Administration requires from an individual who wants a statement of earnings and benefit estimate.

(b) *Statement of earnings and estimated benefits.* Upon receipt of such a request, the Social Security Administration will provide the individual, without charge, a statement of earnings and benefit estimate or an earnings statement. See § 404.810ff concerning the information contained in these statements.

(c) *Detailed earnings statements.* A more detailed earnings statement will be furnished upon request, generally without charge, where the request is program related under § 422.440. If the request for a more-detailed statement is not program related under § 422.440, a charge will be imposed according to the schedule of fees set out in § 422.441.

* * * * *

[FR Doc. 92–28194 Filed 11–20–92; 8:45 am]
BILLING CODE 4190–29–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8448]

RIN 1545–AP64

Enhanced Oil Recovery Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the enhanced oil recovery credit for certain costs that are paid or incurred in connection with a qualified enhanced oil recovery project. Changes to the applicable law were made by the Omnibus Budget Reconciliation Act of 1990. These final regulations provide the public with guidance in determining the costs that are subject to the credit, the circumstances under which the credit is available, and the procedures whereby a project is certified as a qualified enhanced oil recovery project.

EFFECTIVE DATE: November 23, 1992.

FOR FURTHER INFORMATION CONTACT: Brenda M. Stewart of the Office of Assistant Chief Counsel (Passthroughs and Special Industries), 202–622–3120 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this final regulation has been reviewed by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1545–1292. The estimated annual burden per respondent or recordkeeper varies from 70 hours to 76 hours depending on individual circumstances, with an estimated average of 73 hours.

These estimates are an approximation of the average time expected to be necessary to collect required information. They are based on such information as is available to the Internal Revenue Service. Individual respondents or recordkeepers may require more time or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

On December 30, 1991, proposed regulations concerning the costs eligible for the enhanced oil recovery credit provided in section 43 of the Internal Revenue Code and the circumstances under which the credit is available were published in the **Federal Register** (56 FR 67256 (December 30, 1991)). These amendments were proposed to conform the regulations to section 11511 of the Omnibus Reconciliation Act of 1990, Public Law 101–508.

Rules concerning procedures for certification of a project as a qualified enhanced oil recovery project were published as temporary regulations (56 FR 67176 (December 30, 1991)).

A public hearing was held on April 7, 1992. After considering all comments regarding the proposed regulations, the proposed regulations are adopted as revised by this Treasury decision.

Explanation of Provisions

I. *Operating Mineral Interest Ownership Requirement*

The proposed regulations provide that only taxpayers with operating mineral interests may claim the section 43 credit. Commentators suggest that the operating mineral interest ownership requirement should be eliminated from the final regulations. Commentators argue that this provision creates substantial differences in the amount and the timing of the credit depending upon how a project is financed. For example, if a taxpayer constructs a pipeline to transport a tertiary injectant to the project site, the taxpayer would receive a front-end credit for the construction cost. On the other hand, if a taxpayer contracts to purchase the tertiary injectant from a supplier, who constructs a pipeline, the taxpayer would only receive the credit for the cost of the tertiary injectant when it is injected. Commentators indicate that the differential in the timing and the amount of the credit, depending upon how the project is financed, may determine whether a project is pursued.

Commentators further argue that the operating mineral interest ownership requirement places taxpayers who have alternative minimum tax liability, and thus are unable to use the credit, at a competitive disadvantage because they cannot sell or otherwise transfer the credit to a third party. Under this line of reasoning, taxpayers with alternative minimum tax liability would lack incentive to implement enhanced oil recovery projects.

Commentators suggest two alternatives to the operating mineral interest ownership requirement. First, commentators suggest that the final regulations provide for a credit-sharing arrangement whereby a taxpayer that does not own an operating mineral interest would be allowed to claim the credit if the taxpayer secures a certification from the operating mineral interest owners that they will not claim the credit for the same tangible property costs.

Second, commentators suggest a credit-sharing arrangement whereby the amount of the credit allowable to the owners of operating mineral interests would be reduced by the amount of the credit claimed by a taxpayer who pays or incurs costs in connection with the project, but does not own an operating mineral interest. This would be accomplished by requiring the owners of operating mineral interests to forgo claiming the credit with respect to certain costs up to the amount claimed by the taxpayer that does not own an operating mineral interest.

The credit-sharing arrangements suggested by the commentators were not adopted in the final regulations because of administrative difficulties. Allowing credit-sharing if the taxpayer secures a certification from the operating mineral interest owners that they will not claim the credit for the same tangible property costs would require a potentially difficult allocation to separate the capitalized costs of the tangible property from the market price of the tertiary injectants. Allowing credit-sharing arrangements whereby the credit allowable to owners of operating mineral interests is reduced by the amount of the credit claimed by a taxpayer who does not own an operating mineral interest would require detailed information-sharing between companies with the need to constantly update the data to reflect new expenditures. Because of these administrative difficulties with the proposed alternatives, the final regulations retain the requirement that a taxpayer claiming the credit must own an operating mineral interest.

II. *Significant Expansion—Unaffected Acreage or Reservoir*

The proposed regulations provide that a project begun before January 1, 1991, is considered significantly expanded if it affects substantially unaffected acreage or a previously unaffected reservoir. Thus, under the proposed regulations, a lateral expansion would qualify for the credit; however, a vertical expansion would not qualify unless it affects a previously unaffected reservoir.

Commentators suggest that in lieu of the requirement that a significant expansion must affect substantially unaffected acreage or a previously unaffected reservoir, a project should be considered significantly expanded if it affects previously unaffected reservoir volume. Commentators indicate that the term "reservoir volume" more realistically reflects the three-dimensional concept petroleum engineers use in measuring reserves and the ultimate recovery of oil in place.

The final regulations reflect the comments and provide that a project is significantly expanded after December 31, 1990, if it affects reservoir volume that was substantially unaffected by a project begun before January 1, 1991.

III. *Significant Expansion—More Than 36 Month Termination*

The proposed regulations provide that a project is considered significantly expanded if each tertiary recovery method implemented in a project prior to January 1, 1991, terminated more than 36 months before an enhanced oil recovery project commenced after December 31, 1990. This provision was intended to allow taxpayers to claim the credit for a project on property on which a prior project was terminated, while denying the opportunity to terminate and then restart an ongoing project for tax reasons.

Commentators suggest that in lieu of the requirement that a project be terminated for more than 36 months, a taxpayer should merely be required to demonstrate that the previous project was in fact terminated or that the second project is a new and distinct project that is being implemented to recover a more than insignificant amount of crude oil.

The final regulations are more flexible in regard to the 36-month termination rule. Although the 36-month rule is generally retained, a project that is terminated for less than 36 months may qualify for the credit if the taxpayer obtains permission from the Internal Revenue Service.

IV. *Significant Expansion—Change in Method and More Intensive Application of a Method*

The proposed regulations provide that neither a change in tertiary recovery method nor a more intensive application of a method qualifies as a significant expansion. These rules were proposed to enhance the administrability of the significant expansion provisions.

Commentators suggest that rather than disqualifying a change in method or a more intensive application as a significant expansion, the final regulations should provide a facts and circumstances test to determine whether a project has been significantly expanded by a change in method or a more intensive application of a method. Some commentators suggest that a change in method should qualify as a significant expansion if it mobilizes previously immobile oil.

The final regulations reflect some of the commentators' suggestions. Under the final regulations, a taxpayer may qualify a change in method as a significant expansion by obtaining a private letter ruling. Whether a change in method qualifies as a significant expansion will be determined based on all the facts and circumstances. Among the factors that will be considered are whether the change in method is in accordance with sound engineering principles and whether the new method will result in a more than insignificant increase in the amount of crude oil that would be recovered under the previously applied method. The final regulations provide, however, that a more intensive application of a method is not considered to be a significant expansion.

V. *Qualified Tertiary Recovery Method*

The proposed regulations designate ten methods as qualified tertiary recovery methods and provide that the list of qualifying methods may be expanded only by revenue ruling. The proposed regulations specify that polymer augmented waterflooding does not include the injection of polymers for the purpose of modifying the injection profile of the wellbore (wellbore injection profile modification) rather than modifying the water-oil mobility ratio.

Commentators suggest that the final regulations should add four additional methods to the list of qualified methods described in the regulations: (1) Microbial enhanced oil recovery; (2) Mechanically and chemically enhanced waterflooding; (3) Vaporization of oil; and (4) Electromagnetic heating. Commentators argue that these methods are currently in commercial use and meet the general definition of a tertiary recovery method contained in the proposed regulations.

In addition, some commentators suggest that the final regulations should make clear that the costs of wellbore injection profile modification may be qualified costs if the wellbore injection modification is done in conjunction with a qualified method. These commentators suggest as well that profile modification techniques that affect the relative permeability of various layers of the reservoir (permeability modification), whether used alone or in conjunction with a qualified method, come within the definition of polymer augmented waterflooding.

Commentators also suggest that, in light of timeliness considerations, it would be more appropriate to qualify new methods by private letter ruling rather than by revenue ruling.

None of the methods suggested by the commentators have been added to the list of qualified methods because, although these methods may be applied in specialized circumstances, there is insufficient evidence regarding their general effectiveness. However, a project using one of these methods as part of a qualified method (*e.g.*, the injection of microbes into a reservoir to produce surfactants in a microemulsion flooding project) may qualify for the credit.

The final regulations reflect the commentators' suggestion that a project using wellbore injection profile modification or permeability modification in conjunction with a qualified method may qualify for the credit. However, wellbore injection profile modification and permeability profile modification alone are not tertiary recovery methods. Therefore, the final regulations make clear that injection profile modification and permeability modification do not come within the definition of polymer augmented waterflooding for purposes of section 43.

The final regulations are more flexible regarding how new methods are qualified. The final regulations retain the rule that new methods may be qualified by revenue ruling. In addition, however, a taxpayer may request a private letter ruling that a method, other than one of the listed methods or a method qualified by revenue ruling, is a qualified tertiary recovery method. The Internal Revenue Service intends to issue a revenue procedure prescribing guidelines for obtaining advance determinations.

VI. *Qualified Costs—Primary Purpose and Allocation*

The proposed regulations provide that, as a general rule, an amount may be included in the credit base only if it is paid or incurred with respect to an asset that is used for the primary purpose of implementing a qualified enhanced oil recovery project. The proposed regulations require allocation of the costs of tangible property that is used for more than one qualified project and tangible property that is used for a qualified project and for other activities.

Commentators question whether the primary purpose rule is necessary in light of the proposed regulations' requirement that the cost of integral tangible property be allocated between qualifying and nonqualifying uses. Commentators state that the practical effect of the rule in the proposed regulations would be to deny the credit with respect to assets serving both a qualifying and nonqualifying project (i.e. a pre-existing project). Commentators argue that the primary purpose rule may be at odds with the realities of the oil industry. For example, the primary purpose rule does not take into account the fact that in isolated locations where geographic and climatic conditions impose high costs in the construction and transportation of facilities to the project site, operators attempt to combine multiple functions in a single facility to minimize capital and operating expenditures. Also an operator must drill a well that will be used in an enhanced oil recovery project when a drilling rig is available, without regard to whether enhanced oil recovery facilities are actually functioning or the injectant supply has arrived.

Commentators also express concern that the primary purpose rule would eliminate the costs of cogeneration facilities from the credit base. They argue that although a cogeneration facility produces electricity, the primary purpose of a cogeneration facility

located on or near oil producing properties is to produce steam for the enhanced oil recovery project.

The final regulations modify the primary purpose rule contained in the proposed regulations in response to comments. Under the final regulations, a cost must be paid or incurred with respect to an asset used for the primary purpose of implementing one or more enhanced oil recovery projects, at least one of which must be a qualified enhanced oil recovery project. Accordingly, the rule does not deny the credit with respect to assets used primarily for tertiary recovery, but does deny the credit with respect to assets used primarily for secondary or primary recovery.

The final regulations retain the allocation requirement with two modifications. First, allocation is not required with respect to an asset with a *de minimis* nonqualifying use. Second, the allocation rule is applied with respect to the determination of all creditable costs under section 43. The allocation requirement is retained because the credit was intended to apply only to costs related to tertiary recovery. H. R. Rep. No. 964, 101st Cong., 2d Sess. 1124 (1990). The allocation requirement insures that costs related to primary or secondary recovery or to other activities unrelated to tertiary recovery are excluded from the credit base.

The final regulations recognize that some primary production may result when a well is drilled in connection with a qualified enhanced oil recovery project. Accordingly, the costs of drilling a well that is used for the primary purpose of implementing a qualified project are qualified costs notwithstanding that some primary or secondary recovery results, provided that the primary or secondary recovery is consistent with the qualified project plan.

The final regulations do not contain provisions specifically relating to cogeneration facilities. Depending upon the facts and circumstances, however, portions of a cogeneration facility may qualify for the credit under the primary purpose and allocation rules of the final regulations. A taxpayer wishing to claim the credit for costs associated with a cogeneration facility may request a private letter ruling regarding whether the costs are qualified costs.

VII. *Qualified Costs—Tangible Property—Placed in Service*

The proposed regulations provide that the cost of tangible property that is an integral part of a qualified enhanced oil recovery project is not included in the credit base until the property is placed in service in connection with the project. This provision is based on section 43(c)(1)(A)(ii), which provides that depreciation or amortization in lieu of depreciation must be allowable with respect to tangible property.

Commentaters argue that the credit should be allowed when costs are paid or incurred and should not be deferred until the property is placed in service. These comments contend that the requirement that depreciation or amortization be allowable with respect to the property is merely part of the definition of tangible property and not a timing requirement.

The final regulations adopt the analysis suggested in the comments and provide that tangible property costs are taken into account in determining the credit in the taxable year in which the costs are paid or incurred.

VIII. *Qualified Costs—Tangible Property—Integral Part*

The proposed regulations provide that tangible property is an integral part of a qualified enhanced oil recovery project if the property is used directly in a tertiary recovery method and is essential to the completeness of the method. The proposed regulations limit the credit to property actually used in the recovery of crude oil. Therefore, property that is used to store or process the produced oil (*e.g.*, storage tanks, gas processing plants, and refineries) is not eligible for the credit.

Commentaters suggest the definition of "integral part" should focus on whether property is used directly in or is essential to the completeness of the project rather than the method. Commentaters also suggest that the final regulations contain examples that: (1) Treat the cost of leasing tangible property as qualified cost; (2) specify that oil storage tanks are an integral part of a project; and (3) distinguish between gas processing equipment and equipment that is used in the recycling of tertiary injectants.

The final regulations generally adopt the suggestions made in the comments, and accordingly, provide that the integral part test is determined with respect to the project, not the method. However, the final regulations adopt the position of the proposed regulations by excluding the costs of storage tanks from the credit base. There must be a cutoff point for the credit somewhere between production and distribution of the oil, and storage facilities are a reasonable place to draw the line.

IX. *Pre-injection Costs*

The proposed regulations provide that costs may be taken into account in determining the amount of the credit only after first injection occurs. If first injection occurs on or before the date the taxpayer files a return for the year the credit is allowable for the costs, the taxpayer may claim the credit for the costs on the return. However, if first injection occurs after the return is filed, the taxpayer may claim the credit on an amended return for the year the credit is allowable for the costs. If first injection occurs more than 36 months after the close of the taxable year in which the costs are paid or incurred, the costs may not be taken into account in determining the credit for any taxable year.

Commentators argue that deferring the credit until first injection has occurred penalizes both large-scale projects that require lengthy construction periods and operations with limited transportation opportunities. Commentators suggest that the 36-month limitation on claiming the credit for pre-injection costs should be eliminated or that the pre-injection "window" should be widened from 36 months to 48 months to take into account operational and technical parameters.

In response to the comments, the final regulations are more flexible in regard to costs paid or incurred prior to first injection. As in the proposed regulations, if first injection occurs on or before the date a taxpayer files a federal income tax return for the taxable year in which the costs are paid or incurred (the initial return), the costs may be taken into account on that return; and if first injection occurs later, the costs may be taken into account on an amended return. The final regulations add that if first injection occurs or is expected to occur after the initial return is filed (including at a time that is more than 36 months after the close of the taxable year in which the costs are paid or incurred), the taxpayer may include the costs in the credit base on a return filed before first injection if a private letter ruling is obtained.

X. *Certification*

Section 1.43–3T of the temporary regulations relating to the certification of enhanced oil recovery projects is adopted in these final regulations. However, the contents of a significant expansion certification are changed to reflect the significant expansion provisions in the final regulations.

Special Analyses

These rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. Although this Treasury decision was preceded by a notice of proposed rulemaking that solicited public comments, the notice was not required by 5 U.S.C. 553 since the regulations proposed in that notice and adopted by this Treasury decision are interpretative. Therefore, a final Regulatory Flexibility Analysis is not required by the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these regulations is Brenda M. Stewart of the Office of Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.28–0 through 1.44A–4

Credits, Drugs, Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to Regulations

Accordingly, title 26, chapter 1, parts 1 and 602, of the Code of Federal Regulations is amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph. 1. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * * Sections 1.43–0 through 1.43–7 also issued under section 26 U.S.C. 43.

Par. 2. Sections 1.43–1 and 1.43–2 are redesignated as §§ 32–1 and 1.32–2 and new §§ 43–0 through 1.43–2 are added to read as set forth below:

§ 1.43–0 Table of contents.

This section lists the captions contained in §§ 1.43–0 through 1.43–7.

§ 1.43–1 The enhanced oil recovery credit—general rules.

(a) *Claiming the credit*—(1) *In general.* The enhanced oil recovery credit (the "credit") is a component of the section 38 general business credit. A taxpayer that owns an operating mineral interest (as defined in § 1.614–2(b)) in a property may claim the credit for qualified enhanced oil recovery costs (as described in § 1.43–4) paid or incurred by the taxpayer in connection with a qualified enhanced oil recovery project (as described in § 1.43–2) undertaken with respect to the property A taxpayer that does not own an operating mineral interest in a property may not claim the credit. To the extent a credit included in the current year business credit under section 38(b) is unused under section 38, the credit is carried back or forward under the section 39 business credit carryback and carryforward rules.

(2) *Examples.* The following examples illustrate the principles of this paragraph (a).

Example 1. Credit for operating mineral interest owner. In 1992, A, the owner of an operating mineral interest in a property, begins a qualified enhanced oil recovery project using cyclic steam. B, who owns no interest in the property, purchases and places in service a steam generator. B sells A steam, which A uses as a tertiary injectant described in section 193. Because A owns an operating mineral interest in the property with respect to which the project is undertaken, A may claim a credit for the cost of the steam. Although B owns the steam generator used to produce steam for the project, B may not claim a credit for B's costs because B does not own an operating mineral interest in the property.

Example 2. Credit for operating mineral interest owner. C and D are partners in CD, a partnership that owns an operating mineral interest in a property. In 1992, CD begins a qualified enhanced oil recovery project using cyclic steam. D purchases a steam generator and sells steam to CD. Because CD owns an operating mineral interest in the property with respect to which the project is undertaken, CD may claim a credit for the cost of the steam. Although D owns the steam generator used to produce steam for the project, D may not claim a credit for the cost of the steam generator because D paid these costs in a capacity other than that of an operating mineral interest owner

(b) *Amount of the credit.* A taxpayer's credit is an amount equal to 15 percent of the taxpayer's qualified enhanced oil recovery costs for the taxable year, reduced by the phase-out amount, if any, determined under paragraph (c) of this section.

(c) *Phase-out of the credit as crude oil prices increase*—(1) *In general.* The amount of the credit (determined without regard to this paragraph (c)) for any taxable year is reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph (c)) as—

(i) The amount by which the reference price determined under section 29(d)(2)(C) for the calendar year immediately preceding the calendar year in which the taxable year begins exceeds $28 (as adjusted under paragraph (c)(2) of this section); bears to

(ii) $6.

(2) *Inflation adjustment*—(i) *In general.* For any taxable year beginning in a calendar year after 1991, an amount equal to $28 multiplied by the inflation adjustment factor is substituted for the $28 amount under paragraph (c)(1)(i) of this section.

(ii) *Inflation adjustment factor.* For purposes of this paragraph (c), the inflation adjustment factor for any calendar year is a fraction, the numerator of which is the GNP implicit price deflator for the preceding calendar year and the denominator of which is the GNP implicit price deflator for 1990. The "GNP implicit price deflator" is the first revision of the implicit price deflator for the gross national product as computed and published by the Secretary of Commerce. As early as practicable, the inflation adjustment factor for each calendar year will be published by the Internal Revenue Service in the Internal Revenue Bulletin.

(3) *Examples.* The following examples illustrate the principles of this paragraph (c).

Example 1. Reference price exceeds $28. In 1992, E, the owner of an operating mineral interest in a property incurs $100 of qualified enhanced oil recovery costs. The reference price for 1991 determined under section 29(d)(2)(C) is $30 and the inflation adjustment factor for 1992 is 1 E's credit for 1992 determined without regard to the phase-out for crude oil price increases is $15 ($100 × 15%). In determining E's credit, the credit is reduced by $5 ($15 × ($30 − ($28 × 1))/6). Accordingly, E's credit for 1992 is $10 ($15 − $5).

Example 2. Inflation adjustment. In 1993, F, the owner of an operating mineral interest in a property, incurs $100 of qualified enhanced oil recovery costs. The 1992 reference price is $34, and the 1993 inflation adjustment factor is 1.10. F's credit for 1993 determined without regard to the phase-out for crude oil price increases is $15 ($100 × 15%). In determining F's credit, $30.80 (1.10 × $28) is substituted for $28, and the credit is reduced by $8 ($15 × ($34 − $30.80)/6). Accordingly, F's credit for 1993 is $7 ($15 − $8).

(d) *Reduction of associated deductions*—(1) *In general.* Any deduction allowable under chapter 1 for an expenditure taken into account in computing the amount of the credit determined under paragraph (b) of this section is reduced by the amount of the credit attributable to the expenditure.

(2) *Certain deductions by an integrated oil company.* For purposes of determining the intangible drilling and development costs that an integrated oil company must capitalize under section 291(b), the amount allowable as a deduction under section 263(c) is the deduction allowable after paragraph (d)(1) of this section is applied. See § 1.43–4(b)(2) (extent to which integrated oil company intangible drilling and development costs are qualified enhanced oil recovery costs).

(e) *Basis adjustment.* For purposes of subtitle A, the increase in the basis of property which would (but for this paragraph (e)) result from an expenditure with respect to the property is reduced by the amount of the credit determined under paragraph (b) of this section attributable to the expenditure.

(f) *Passthrough entity basis adjustment*—(1) *Partners' interests in a partnership.* To the extent a partnership expenditure is not deductible under paragraph (d)(1) of this section or does not increase the basis of property under paragraph (e) of this section, the expenditure is treated as an expenditure described in section 705(a)(2)(B) (concerning decreases to basis of partnership interests). Thus, the adjusted bases of the partners' interests in the partnership are decreased (but not below zero).

(2) *Shareholders' stock in an S corporation.* To the extent an S corporation expenditure is not deductible under paragraph (d)(1) of this section or does not increase the basis of property under paragraph (e) of this section, the expenditure is treated as an expenditure described in section 1367(a)(2)(D) (concerning decreases to basis of S corporation stock). Thus, the bases of the shareholders' S corporation stock are decreased (but not below zero).

(g) *Examples.* The following examples illustrate the principles of paragraphs (d) through (f) of this section.

Example 1. Deductions reduced for credit amount. In 1992, G, the owner of an operating mineral interest in a property, incurs $100 of intangible drilling and development costs in connection with a qualified enhanced oil recovery project undertaken with respect to the property. G elects under section 263(c) to deduct these intangible drilling and development costs under section 263(c). The amount of the credit determined under paragraph (b) of this section attributable to the $100 of intangible drilling and development costs is $15 ($100 × 15%). Therefore, G's otherwise allowable deduction of $100 for the intangible drilling and development costs is reduced by $15. Accordingly, in 1992, G may deduct under section 263(c) only $85 ($100 − $15) for these costs.

Example 2. Integrated oil company deduction reduced. The facts are the same as in *Example 1*, except that G is an integrated oil company. As in *Example 1*, the amount of the credit determined under paragraph (b) of this section attributable to the $100 of intangible drilling and development costs is $15, and G's allowable deduction under section 263(c) is $85. Because G is an integrated oil company, G must capitalize 25.50 ($85 × 30%) under section 291(b). Therefore, in 1992, G may deduct under section 263(c) only $59.50 ($85 − $25.50) for these intangible drilling and development costs.

Example 3. Basis of property reduced. In 1992, H, the owner of an operating mineral interest in a property, pays $100 to purchase tangible property that is an integral part of a qualified enhanced oil recovery project undertaken with respect to the property The amount of the credit determined under paragraph (b) of this section attributable to the $100 is $15 ($100 × 15%). Therefore, for purposes of subtitle A, H's basis in the tangible property is $85 ($100 − $15).

Example 4. Basis of interest in passthrough entity reduced. In 1992, I is a $50% partner in IJ, a partnership that owns an operating mineral interest in a property. IJ pays $200 to purchase tangible property that is an integral part of a qualified enhanced oil recovery project undertaken with respect to the property. The amount of the credit determined under paragraph (b) of this section attributable to the $200 is $30 ($200 × 15%). Therefore, for purposes of subtitle A, IJ's basis in the tangible property is $170 ($200 − $30). Under paragraph (f) of this section, the amount of the purchase price that does not increase the basis of the property ($30) is treated as an expenditure described in section 705(a)(2)(B). Therefore, I's basis in

the partnership interest is reduced by $15 (I's allocable share of the section 705(a)(2)(B) expenditure ($30 × 50%)).

§ 1.43-2 Qualified enhanced oil recovery project.

(a) *Qualified enhanced oil recovery project.* A "qualified enhanced oil recovery project" is any project that meets all of the following requirements—

(1) The project involves the application (in accordance with sound engineering principles) of one or more qualified tertiary recovery methods (as described in paragraph (e) of this section) that is reasonably expected to result in more than an insignificant increase in the amount of crude oil that ultimately will be recovered;

(2) The project is located within the United States (within the meaning of section 638(1));

(3) The first injection of liquids, gases, or other matter for the project (as described in paragraph (c) of this section) occurs after December 31, 1990; and

(4) The project is certified under § 1.43-3.

(b) *More than insignificant increase.* For purposes of paragraph (a)(1) of this section, all the facts and circumstances determine whether the application of a tertiary recovery method can reasonably be expected to result in more than an insignificant increase in the amount of crude oil that ultimately will be recovered. Certain information submitted as part of a project certification is relevant to this determination. See § 1.43-3(a)(3)(i)(D). In no event is the application of a recovery method that merely accelerates the recovery of crude oil considered an application of one or more qualified tertiary recovery methods that can reasonably be expected to result in more than an insignificant increase in the amount of crude oil that ultimately will be recovered.

(c) *First injection of liquids, gases, or other matter*—(1) *In general.* The "first injection of liquids, gases, or other matter" generally occurs on the date a tertiary injectant is first injected into the reservoir. The "first injection of liquids, gases, or other matter" does not include—

(i) The injection into the reservoir of any liquids, gases, or other matter for the purpose of pretreating or preflushing the reservoir to enhance the efficiency of the tertiary recovery method; or

(ii) Test or experimental injections.

(2) *Example.* The following example illustrates the principles of this paragraph (c).

Example. Injections to pretreat the reservoir. In 1989, A, the owner of an operating mineral interest in a property, began injecting water into the reservoir for the purpose of elevating reservoir pressure to obtain miscibility pressure to prepare for the injection of miscible gas in connection with an enhanced oil recovery project. In 1992, A obtains miscibility pressure in the reservoir and begins injecting miscible gas into the reservoir. The injection of miscible gas, rather than the injection of water, is the first injection of liquids, gases, or other matter into the reservoir for purposes of determining whether the first injection of liquids, gases, or other matter occurs after December 31, 1990.

(d) *Significant expansion exception*—(1) *In general.* If a project for which the first injection of liquids, gases, or other matter (within the meaning of paragraph (c)(1) of this section) occurred before January 1, 1991, is significantly expanded after December 31, 1990, the expansion is treated as a separate project for which the first injection of liquids, gases, or other matter occurs after December 31, 1990.

(2) *Substantially unaffected reservoir volume.* A project is considered significantly expanded if the injection of liquids, gases, or other matter after December 31, 1990, is reasonably expected to result in more than an insignificant increase in the amount of crude oil that ultimately will be recovered from reservoir volume that was substantially unaffected by the injection of liquids, gases, or other matter before January 1, 1991.

(3) *Terminated projects.* Except as otherwise provided in this paragraph (d)(3), a project is considered significantly expanded if each qualified tertiary recovery method implemented in the project prior to January 1, 1991, terminated more than 36 months before implementing an enhanced oil recovery project that commences after December 31, 1990. Notwithstanding the provisions of the preceding sentence, if a project implemented prior to January 1, 1991, is terminated for less than 36 months before implementing an enhanced oil recovery project that commences after December 31, 1990, a taxpayer may request permission to treat the project that commences after December 31, 1990, as a significant expansion. Permission will not be granted if the Internal Revenue Service determines that a project was terminated to make an otherwise nonqualifying project eligible for the credit. For purposes of section 43, a qualified tertiary recovery method terminates at the point in time when the method no longer results in more than an insignificant increase in the amount of crude oil that ultimately will be recovered. All the facts and circumstances determine whether a tertiary recovery method has terminated. Among the factors considered is the project plan, the unit plan of development, or other similar plan. A tertiary recovery method is not necessarily terminated merely because the injection of the tertiary injectant has ceased. For purposes of this paragraph (d)(1), a project is implemented when costs that will be taken into account in determining the credit with respect to the project are paid or incurred.

(4) *Change in tertiary recovery method.* If the application of a tertiary recovery method or methods with respect to an enhanced oil recovery project for which the first injection of liquids, gases, or other matter occurred before January 1, 1991, has not been terminated for more than 36 months, a taxpayer may request a private letter ruling from the Internal Revenue Service whether the application of a different tertiary recovery method or methods after December 31, 1990, that does not affect reservoir volume substantially unaffected by the previous tertiary recovery method or methods, is treated as a significant expansion. All the facts and circumstances determine whether a change in tertiary recovery method is treated as a significant expansion. Among the factors considered are whether the change in tertiary recovery method is in accordance with sound engineering principles and whether the change in method will result in more than an insignificant increase in the amount of crude oil that would be recovered using the previous method. A more intensive application of a tertiary recovery method after December 31, 1990, is not treated as a significant expansion.

(5) *Examples.* The following examples illustrate the principles of this paragraph (d).

Example 1. Substantially unaffected reservoir volume. In January 1988, B, the owner of an operating mineral interest in a property, began injecting steam into the reservoir in connection with a cyclic steam enhanced oil recovery project. The project affected only a portion of the reservoir volume. In 1992, B begins cyclic steam injections with respect to reservoir volume that was substantially unaffected by the previous cyclic steam project. Because the injection of steam into the reservoir in 1992 affects reservoir volume that was substantially unaffected by the previous cyclic steam injection, the cyclic steam injection in 1992 is treated as a separate project for which the first injection of liquids, gases, or other matter occurs after December 31, 1990.

Example 2. Tertiary recovery method terminated more than 36 months. In 1982, C, the owner of an operating mineral interest in a property, implemented a tertiary recovery

project using cyclic steam injection as a method for the recovery of crude oil. The project was certified as a tertiary recovery project for purposes of the windfall profit tax. In May 1988, the application of the cyclic steam tertiary recovery method terminated. In July 1992, C begins drilling injection wells as part of a project to apply the steam drive tertiary recovery method with respect to the same project area affected by the cyclic steam method. C begins steam injections in September 1992. Because C commences an enhanced oil recovery project more than 36 months after the previous tertiary recovery method was terminated, the project is treated as a separate project for which the first injection of liquids, gases, or other matter occurs after December 31, 1990.

Example 3. Change in tertiary recovery method affecting substantially unaffected reservoir volume. In 1984, D, the owner of an operating mineral interest in a property, implemented a tertiary recovery project using cyclic steam as a method for the recovery of crude oil. The project was certified as a tertiary recovery project for purposes of the windfall profit tax. D continued the cyclic steam injection until 1992, when the tertiary recovery method was changed from cyclic steam injection to steam drive. The steam drive affects reservoir volume that was substantially unaffected by the cyclic steam injection. Because the steam drive affects reservoir volume that was substantially unaffected by the cyclic steam injection, the steam drive is treated as a separate project for which the first injection of liquids, gases, or other matter occurs after December 31, 1990.

Example 4. Change in tertiary recovery method not affecting substantially unaffected reservoir volume. In 1988, E, the owner of an operating mineral interest in a property undertook an immiscible nitrogen enhanced oil recovery project that resulted in more than an insignificant increase in the ultimate recovery of crude oil from the property. E continued the immiscible nitrogen project until 1992, when the project was converted from immiscible nitrogen displacement to miscible nitrogen displacement by increasing the injection of nitrogen to increase reservoir pressure. The miscible nitrogen displacement affects the same reservoir volume that was affected by the immiscible nitrogen displacement. Because the miscible nitrogen displacement does not affect reservoir volume that was substantially unaffected by the immiscible nitrogen displacement nor was the immiscible nitrogen displacement project terminated for more than 36 months before the miscible nitrogen displacement project was implemented, E must obtain a ruling whether the change from immiscible nitrogen displacement to miscible nitrogen displacement is treated as a separate project for which the first injection of liquids, gases, or other matter occurs after December 31, 1990. If E does not receive a ruling, the miscible nitrogen displacement project is not a qualified project.

Example 5. More intensive application of a tertiary recovery method. In 1989, F the owner of an operating mineral interest in a property undertook an immiscible carbon dioxide displacement enhanced oil recovery project. F began injecting carbon dioxide into the reservoir under immiscible conditions. The injection of carbon dioxide under immiscible conditions resulted in more than an insignificant increase in the ultimate recovery of crude oil from the property. F continues to inject the same amount of carbon dioxide into the reservoir until 1992, when new engineering studies indicate that an increase in the amount of carbon dioxide injected is reasonably expected to result in a more than insignificant increase in the amount of crude oil that would be recovered from the property as a result of the previous injection of carbon dioxide. The increase in the amount of carbon dioxide injected affects the same reservoir volume that was affected by the previous injection of carbon dioxide. Because the additional carbon dioxide injected in 1992 does not affect reservoir volume that was substantially unaffected by the previous injection of carbon dioxide and the previous immiscible carbon dioxide displacement method was not terminated for more than 36 months before additional carbon dioxide was injected, the increase in the amount of carbon dioxide injected into the reservoir is not a significant expansion. Therefore, it is not a separate project for which the first injection of liquids, gases, or other matter occurs after December 31, 1990.

(e) *Qualified tertiary recovery methods*—(1) *In general.* For purposes of paragraph (a)(1) of this section, a "qualified tertiary recovery method" is any one or any combination of the tertiary recovery methods described in paragraph (e)(2) of this section. To account for advances in enhanced oil recovery technology, the Internal Revenue Service may by revenue ruling prescribe that a method not described in paragraph (e)(2) of this section is a "qualified tertiary recovery method." In addition, a taxpayer may request a private letter ruling that a method not described in paragraph (e)(2) of this section or in a revenue ruling is a qualified tertiary recovery method. Generally, the methods identified in revenue rulings or private letter rulings will be limited to those methods that involve the displacement of oil from the reservoir rock by means of modifying the properties of the fluids in the reservoir or providing the energy and drive mechanism to force the oil to flow to a production well. The recovery methods described in paragraph (e)(3) of this section are not "qualified tertiary recovery methods."

(2) *Tertiary recovery methods that qualify*—(i) *Thermal recovery methods*—(A) *Steam drive injection.* The continuous injection of steam into one set of wells (injection wells) or other injection source to effect oil displacement toward and production from a second set of wells (production wells);

(B) *Cyclic steam injection*—The alternating injection of steam and production of oil with condensed steam from the same well or wells; and

(C) *In situ combustion.* The combustion of oil or fuel in the reservoir sustained by injection of air, oxygen-enriched air, oxygen, or supplemental fuel supplied from the surface to displace unburned oil toward producing wells. This process may include the concurrent, alternating, or subsequent injection of water.

(ii) *Gas Flood recovery methods*—(A) *Miscible fluid displacement.* The injection of gas (*e.g.*, natural gas, enriched natural gas, a liquified petroleum slug driven by natural gas, carbon dioxide, nitrogen, or flue gas) or alcohol into the reservoir at pressure levels such that the gas or alcohol and reservoir oil are miscible;

(b) *Carbon dioxide augmented waterflooding.* The injection of carbonated water, or water and carbon dioxide, to increase waterflood efficiency;

(C) *Immiscible carbon dioxide displacement.* The injection of carbon dioxide into an oil reservoir to effect oil displacement under conditions in which miscibility with reservoir oil is not obtained. This process may include the concurrent, alternating, or subsequent injection of water; and

(D) *Immiscible nonhydrocarbon gas displacement.* The injection of nonhydrocarbon gas (*e.g.*, nitrogen) into an oil reservoir, under conditions in which miscibility with reservoir oil is not obtained, to obtain a chemical or physical reaction (other than pressure) between the oil and the injected gas or between the oil and other reservoir fluids. This process may include the concurrent, alternating, or subsequent injection of water.

(iii) *Chemical flood recovery methods*—(A) *Microemulsion flooding.* The injection of a surfactant system (*e.g.*, a surfactant, hydrocarbon, cosurfactant, electrolyte, and water) to enhance the displacement of oil toward producing wells; and

(B) *Caustic flooding*—The injection of water that has been made chemically basic by the addition of alkali metal hydroxides, silicates, or other chemicals.

(iv) *Mobility control recovery method—Polymer augmented waterflooding.* The injection of polymeric additives with water to improve the areal and vertical sweep efficiency of the reservoir by increasing the viscosity and decreasing the mobility of the water injected. Polymer augmented waterflooding does not include the injection of polymers for the purpose of modifying the injection profile of the wellbore or the relative

permeability of various layers of the reservoir, rather than modifying the water-oil mobility ratio.

(3) *Recovery methods that do not qualify.* The term "qualified tertiary recovery method" does not include—

(i) Waterflooding—The injection of water into an oil reservoir to displace oil from the reservoir rock and into the bore of the producing well;

(ii) Cyclic gas injection—The increase or maintenance of pressure by injection of hydrocarbon gas into the reservoir from which it was originally produced;

(iii) Horizontal drilling—The drilling of horizontal, rather than vertical, wells to penetrate hydrocarbon bearing formations;

(iv) Gravity drainage—The production of oil by gravity flow from drainholes that are drilled from a shaft or tunnel dug within or below the oil bearing zones; and

(v) Other methods—Any recovery method not specifically designated as a qualified tertiary recovery method in either paragraph (e)(2) of this section or in a revenue ruling or private letter ruling described in paragraph (e)(1) of this section.

(4) *Examples.* The following examples illustrate the principles of this paragraph (e).

Example 1 Polymer augmented waterflooding. In 1992 G, the owner of an operating mineral interest in a property, begins a waterflood project with respect to the property. To reduce the relative permeability in certain areas of the reservoir and minimize water coning, G injects polymers to plug thief zones and improve the areal and vertical sweep efficiency of the reservoir. The injection of polymers into the reservoir does not modify the water-oil mobility ratio. Accordingly, the injection of polymers into the reservoir in connection with the waterflood project does not constitute polymer augmented waterflooding and the project is not a qualified enhanced oil recovery project.

Example 2. Polymer augmented waterflooding. In 1993 H, the owner of an operating mineral interest in a property, begins a caustic flooding project with respect to the property. Engineering studies indicate that the relative permeability of various layers of the reservoir may result in the loss of the injectant to thief zones, thereby reducing the areal and vertical sweep efficiency of the reservoir. As part of the caustic flooding project, H injects polymers to plug the thief zones and improve the areal and vertical sweep efficiency of the reservoir. Because the polymers are injected into the reservoir to improve the effectiveness of the caustic flooding project, the project is a qualified enhanced oil recovery project.

§ 1.43-3T [Redesignated as § 1.43-3]

Par. 3.

Section 1.43-3T is redesignated as § 1.43-3 and is amended as follows:

1. The section heading is amended by removing the word "(Temporary)".

2. Paragraph (a)(3)(i)(C)(*1*) is amended by removing the word "and" at the end of that paragraph and adding in its place ";".

3. Paragraph (a)(3)(i)(C)(*2*) is redesignated as paragraph (a)(3)(i)(C)(*3*) and is amended by removing ";" and adding in its place ".".

4. New paragraph (a)(3)(i)(C)(*2*) is added to read as set forth below.

5. Paragraph (a)(3)(ii)(A) is revised to read as set forth below.

6. Paragraph (a)(3)(ii)(B) is removed.

7 Paragraph (a)(3)(ii)(C) is redesignated as paragraph (a)(3)(ii)(B) and is amended by removing "." and adding in its place ";".

8. New paragraphs (a)(3)(ii) (C) and (D) are added to read as set forth below.

9. Paragraph (e) is removed.

§ 1.43-3 Certification.

(a) * * *

(3) * * *

(i) * * *

(C) * * *

(*2*) If the project involves the application of a tertiary recovery method approved in a private letter ruling described in paragraph (e)(1) of § 1.43-2, a copy of the private letter ruling, and

(ii) * * *

(A) If the expansion affects reservoir volume that was substantially unaffected by a previously implemented project, an adequate delineation of the reservoir volume affected by the previously implemented project;

* * * * *

(C) If the expansion involves the implementation of an enhanced oil recovery project less than 36 months after the termination of a qualified tertiary recovery method that was applied before January 1, 1991, a copy of a private letter ruling from the Internal Revenue Service that the project implemented after December 31, 1990 is treated as a significant expansion; or

(D) If the expansion involves the application after December 31, 1990, of a tertiary recovery method or methods that do not affect reservoir volume that was substantially unaffected by the application of a different tertiary recovery method or methods before January 1, 1991, a copy of a private letter ruling from the Internal Revenue Service that the change in tertiary recovery method is treated as a significant expansion.

* * * * *

Par. 4. Sections 1.43-4, 1.43-6 and 1.43-7 are added and § 1.43-5 is added and reserved as set forth below:

§ 1.43-4 Qualified enhanced oil recovery costs.

(a) *Qualifying costs*—(1) *In general.* Except as provided in paragraph (e) of this section, amounts paid or incurred in any taxable year beginning after December 31, 1990, that are qualified tertiary injectant expenses (as described in paragraph (b)(1) of this section), intangible drilling and development costs (as described in paragraph (b)(2) of this section), and tangible property costs (as described in paragraph (b)(3) of this section) are "qualified enhanced oil recovery costs" if the amounts are paid or incurred with respect to an asset which is used for the primary purpose (as described in paragraph (c) of this section) of implementing an enhanced oil recovery project. Any amount paid or incurred in any taxable year beginning before January 1, 1991, in connection with an enhanced oil recovery project is not a qualified enhanced oil recovery cost.

(2) *Costs paid or incurred for an asset which is used to implement more than one qualified enhanced oil recovery project or for other activities.* Any cost paid or incurred during the taxable year for an asset which is used to implement more than one qualified enhanced oil recovery project is allocated among the projects in determining the qualified enhanced oil recovery costs for each qualified project for the taxable year Similarly, any cost paid or incurred during the taxable year for an asset which is used to implement a qualified enhanced oil recovery project and which is also used for other activities (for example, an enhanced oil recovery project that is not a qualified enhanced oil recovery project) is allocated among the qualified enhanced oil recovery project and the other activities to determine the qualified enhanced oil recovery costs for the taxable year. See § 1.613-5(a). Any cost paid or incurred for an asset which is used to implement a qualified enhanced oil recovery project and which is also used for other activities is not required to be allocated under this paragraph (a)(2) if the use of the property for nonqualifying activities is *de minimis* (*e.g.*, not greater than 10%). Costs are allocated under this paragraph (a)(2) only if the asset with respect to which the costs are paid or incurred is used for the primary purpose of implementing an enhanced oil recovery project. *See* paragraph (c) of this section. Any reasonable allocation method may be used. A method that allocates costs based on the anticipated use in a project or activity is a reasonable method.

(b) *Costs defined*—(1) *Qualified tertiary injectant expenses.* For purposes of this section, "qualified tertiary injectant expenses" means any costs that are paid or incurred in connection with a qualified enhanced oil recovery project and that are deductible under section 193 for the taxable year. *See* section 193 and § 1.193–1. Qualified tertiary injectant expenses are taken into account in determining the credit with respect to the taxable year in which the tertiary injectant expenses are deductible under section 193.

(2) *Intangible drilling and development costs.* For purposes of this section, "intangible drilling and development costs" means any intangible drilling and development costs that are paid or incurred in connection with a qualified enhanced oil recovery project and for which the taxpayer may make an election under section 263(c) for the taxable year. Intangible drilling and development costs are taken into account in determining the credit with respect to the taxable year in which the taxpayer may deduct the intangible drilling and development costs under section 263(c). For purposes of this paragraph (b)(2), the amount of the intangible drilling and development costs for which an integrated oil company may make an election under section 263(c) is determined without regard to section 291(b).

(3) *Tangible property costs*—(i) *In general.* For purposes of this section, "tangible property costs" means an amount paid or incurred during a taxable year for tangible property that is an integral part of a qualified enhanced oil recovery project and that is depreciable or amortizable under chapter 1. An amount paid or incurred for tangible property is taken into account in determining the credit with respect to the taxable year in which the cost is paid or incurred.

(ii) *Integral part.* For purposes of this paragraph (b), tangible property is an integral part of a qualified enhanced oil recovery project if the property is used directly in the project and is essential to the completeness of the project. All the facts and circumstances determine whether tangible property is used directly in a qualified enhanced oil recovery project and is essential to the completeness of the project. Generally, property used to acquire or produce the tertiary injectant or property used to transport the tertiary injectant to a project site is property that is an integral part of the project.

(4) *Examples.* The following examples illustrate the principles of this paragraph (b). Assume for each of these examples that the qualified enhanced oil recovery costs are paid or incurred with respect to an asset which is used for the primary purpose of implementing an enhanced oil recovery project.

Example 1. Qualified costs—in general. (i) In 1992, X, a corporation, acquires an operating mineral interest in a property and undertakes a cyclic steam enhanced oil recovery project with respect to the property. X pays a fee to acquire a permit to drill and hires a contractor to drill six wells. As part of the project implementation, X constructs a building to serve as an office on the property and purchases equipment, including downhole equipment (*e.g.*, casing, tubing, packers, and sucker rods), pumping units, a steam generator, and equipment to remove gas and water from the oil after it is produced. X constructs roads to transport the equipment to the wellsites and incurs costs for clearing and draining the ground in preparation for the drilling of the wells. X purchases cars and trucks to provide transportation for monitoring the wellsites. In addition, X contracts with Y for the delivery of water to produce steam to be injected in connection with the cyclic steam project, and purchases storage tanks to store the water.

(ii) The leasehold acquisition costs are not qualified enhanced oil recovery costs. However, the costs of the permit to drill are intangible drilling and development costs that are qualified costs. The costs associated with hiring the contractor to drill, constructing roads, and clearing and draining the ground are intangible drilling and development costs that are qualified enhanced oil recovery costs. The downhole equipment, the pumping units, the steam generator, and the equipment to remove the gas and water from the oil after it is produced are used directly in the project and are essential to the completeness of the project. Therefore, this equipment is an integral part of the project and the costs of the equipment are qualified enhanced oil recovery costs. Although the building that X constructs as an office and the cars and trucks X purchases to provide transportation for monitoring the wellsites are used directly in the project, they are not essential to the completeness of the project. Therefore, the building and the cars and trucks are not an integral part of the project and their costs are not qualified enhanced oil recovery costs. The cost of the water X purchases from Y is a tertiary injectant expense that is a qualified enhanced oil recovery cost. The storage tanks X acquires to store the water are required to provide a proximate source of water for the production of steam. Therefore, the water storage tank are an integral part of the project and the costs of the water storage tanks are qualified enhanced oil recovery costs.

Example 2. Diluent storage tanks. In 1992, A, the owner of an operating mineral interest, undertakes a qualified enhanced oil recovery project with respect to the property. A acquires diluent to be used in connection with the project. A stores the diluent in a storage tank that A acquires for that purpose. The storage tank provides a proximate source of diluent to be used in the tertiary recovery method. Therefore, the storage tank is used directly in the project and is essential to the completeness of the project. Accordingly, the storage tank is an integral part of the project and the cost of the storage tank is a qualified enhanced oil recovery cost.

Example 3. Oil storage tanks. In 1992, Z, a corporation and the owner of an operating mineral interest in a property, undertakes a qualified enhanced oil recovery project with respect to the property. Z acquires storage tanks that Z will use solely to store the crude oil that is produced from the enhanced oil recovery project. The storage tanks are not used directly in the project and are not essential to the completeness of the project. Therefore, the storage tanks are not an integral part of the enhanced oil recovery project and the costs of the storage tanks are not qualified enhanced oil recovery costs.

Example 4. Oil refinery. B, the owner of an operating mineral interest in a property, undertakes a qualified enhanced oil recovery project with respect to the property. Located on B's property is an oil refinery where B will refine the crude oil produced from the project. The refinery is not used directly in the project and is not essential to the completeness of the project. Therefore, the refinery is not an integral part of the enhanced oil recovery project.

Example 5. Gas processing plant. C, the owner of an operating mineral interest in a property, undertakes a qualified enhanced oil recovery project with respect to the property. A gas processing plant where C will process gas produced in the project is located on C's property. The gas processing plant is not used directly in the project and is not essential to the completeness of the project. Therefore, the gas processing plant is not an integral part of the enhanced oil recovery project.

Example 6. Gas processing equipment. The facts are the same as in *Example 5* except that C uses a portion of the gas processing plant to separate and recycle the tertiary injectant. The gas processing equipment used to separate and recycle the tertiary injectant is used directly in the project and is essential to the completeness of the project. Therefore, the gas processing equipment used to separate and recycle the tertiary injectant is an integral part of the enhanced oil recovery project and the costs of this equipment are qualified enhanced oil recovery costs.

Example 7. Steam generator costs allocated. In 1988, D, the owner of an operating mineral interest in a property, undertook a steam drive project with respect to the property. In 1992, D decides to undertake a steam drive project with respect to reservoir volume that was substantially unaffected by the 1988 project. The 1992 project is a significant expansion that is a qualified enhanced oil recovery project. D purchases a new steam generator with sufficient capacity to provide steam for both the 1988 project and the 1992 project. The steam generator is used directly in the 1992 project and is essential to the completeness of the 1992 project. Accordingly, the steam generator is an integral part of the 1992 project. Because the steam generator is also used to provide steam for the 1988 project, D must allocate the cost of the steam generator to the 1988 project and the 1992 project. Only

the portion of the cost of the steam generator that is allocable to the 1992 project is a qualified enhanced oil recovery cost.

Example 8. Carbon dioxide pipeline. In 1992, E, the owner of an operating mineral interest in a property, undertakes an immiscible carbon dioxide displacement project with respect to the property. E constructs a pipeline to convey carbon dioxide to the project site. E contracts with F, a producer of carbon dioxide, to purchase carbon dioxide to be injected into injection wells in E's enhanced oil recovery project. The cost of the carbon dioxide is a tertiary injectant expense that is a qualified enhanced oil recovery cost. The pipeline is used by E to transport the tertiary injectant, that is, the carbon dioxide to the project site. Therefore, the pipeline is an integral part of the project. Accordingly, the cost of the pipeline is a qualified enhanced oil recovery cost.

Example 9. Water source wells. In 1992, G the owner of an operating mineral interest in a property, undertakes a polymer augmented waterflood project with respect to the property. G drills water wells to provide water for injection in connection with the project. The costs of drilling the water wells are intangible drilling and development costs that are paid or incurred in connection with the project. Therefore, the costs of drilling the water wells are qualified enhanced oil recovery costs.

Example 10. Leased equipment. In 1992, H, the owner of an operating mineral interest in a property undertakes a steam drive project with respect to the property. H contracts with I, a driller, to drill injection wells in connection with the project. H also leases a steam generator to provide steam for injection in connection with the project. The drilling costs are intangible drilling and development costs that are paid in connection with the project and are qualified enhanced oil recovery costs. The steam generator is used to produce the tertiary injectant. The steam generator is used directly in the project and is essential to the completeness of the project; therefore, it is an integral part of the project. The costs of leasing the steam generator are tangible property costs that are qualified enhanced oil recovery costs.

(c) *Primary purpose*—(1) *In general.* For purposes of this section, a cost is a qualified enhanced oil recovery cost only if the cost is paid or incurred with respect to an asset which is used for the primary purpose of implementing one or more enhanced oil recovery projects, at least one of which is a qualified enhanced oil recovery project. All the facts and circumstances determine whether an asset is used for the primary purpose of implementing an enhanced oil recovery project. For purposes of this paragraph (c), an enhanced oil recovery project is a project that satisfies the requirements of paragraphs (a) (1) and (2) of section 1.43–2.

(2) *Tertiary injectant costs.* Tertiary injectant costs generally satisfy the primary purpose test of this paragraph (c).

(3) *Intangible drilling and development costs.* Intangible drilling and development costs paid or incurred with respect to a well that is used in connection with the recovery of oil by primary or secondary methods are not qualified enhanced oil recovery costs. Except as provided in this paragraph (c)(3), a well used for primary or secondary recovery is not used for the primary purpose of implementing an enhanced oil recovery project. A well drilled for the primary purpose of implementing an enhanced oil recovery project is not considered to be used for primary or secondary recovery, notwithstanding that some primary or secondary production may result when the well is drilled, provided that such primary or secondary production is consistent with the unit plan of development or other similar plan. All the facts and circumstances determine whether primary or secondary recovery is consistent with the unit plan of development or other similar plan.

(4) *Tangible property costs.* Tangible property costs must be paid or incurred with respect to property which is used for the primary purpose of implementing an enhanced oil recovery project.

If tangible property is used partly in a qualified enhanced oil recovery project and partly in another activity, the property must be primarily used to implement the qualified enhanced oil recovery project.

(5) *Offshore drilling platforms.* Amounts paid or incurred in connection with the acquisition, construction, transportation, erection, or installation of an offshore drilling platform (regardless of whether the amounts are intangible drilling and development costs) that is used in connection with the recovery of oil by primary or secondary methods are not qualified enhanced oil recovery costs. An offshore drilling platform used for primary or secondary recovery is not used for the primary purpose of implementing an enhanced oil recovery project.

(6) *Examples.* The following examples illustrate the principles of this paragraph (c).

Example 1. Intangible drilling and development costs. In 1992, J incurs intangible drilling and development costs in drilling a well. J intends to use the well as an injection well in connection with an enhanced oil recovery project in 1994, but in the meantime will use the well in connection with a secondary recovery project. J may not take the intangible drilling and development costs into account in determining the credit because the primary purpose of a well used for secondary recovery is not to implement a qualified enhanced oil recovery project.

Example 2. Offshore drilling platform. K, the owner of an operating mineral interest in an offshore oil field located within the United States, constructs an offshore drilling platform that is designed to accommodate the primary, secondary, and tertiary development of the field. Subsequent to primary and secondary development of the field, K commences an enhanced oil recovery project that involves the application of a qualified tertiary recovery method. As part of the enhanced oil recovery project, K drills injection wells from the offshore drilling platform K used in the primary and secondary development of the field and installs an additional separator on the platform.

Because the offshore drilling platform was used in the primary and secondary development of the field and was not used for the primary purpose of implementing tertiary development of the field, costs incurred by K in connection with the acquisition, construction, transportation, erection, or installation of the offshore drilling platform are not qualified enhanced oil recovery costs. However, the costs K incurs for the additional separator are qualified enhanced oil recovery costs because the separator is used for the primary purpose of implementing tertiary development of the field. In addition, the intangible drilling and development costs K incurs in connection with drilling the injection wells are qualified enhanced oil recovery costs with respect to which K may claim the enhanced oil recovery credit.

(d) *Costs paid or incurred prior to first injection*—(1) *In general.* Qualified enhanced oil recovery costs may be paid or incurred prior to the date of the first injection of liquids, gases, or other matter (within the meaning of § 1.43–2(c)). If the first injection of liquids, gases, or other matter occurs on or before the date the taxpayer files the taxpayer's federal income tax return for the taxable year with respect to which the costs are allowable, the costs may be taken into account on that return. If the first injection of liquids, gases, or other matter is expected to occur after the date the taxpayer files that return, costs may be taken into account on that return if the Internal Revenue Service issues a private letter ruling to the taxpayer that so permits.

(2) *First injection after filing of return for taxable year costs are allowable.* Except as provided in paragraph (d)(3) of this section, if the first injection of liquids, gases, or other matter occurs or is expected to occur after the date the taxpayer files the taxpayer's federal income tax return for the taxable year with respect to which the costs are allowable, the costs may be taken into account on an amended return (or in the case of a Coordinated Examination Program taxpayer, on a written statement treated as a qualified return) after the earlier of—

(i) The date the first injection of liquids, gases, or other matter occurs; or

(ii) The date the Internal Revenue Service issues a private letter ruling that provides that the taxpayer may take costs into account prior to the first injection of liquids, gases, or other matter.

(3) *First injection more than 36 months after close of taxable year costs are paid or incurred.* If the first injection of liquids, gases, or other matter occurs more than 36 months after the close of the taxable year in which costs are paid or incurred, the taxpayer may take the costs into account in determining the credit only if the Internal Revenue Service issues a private letter ruling to the taxpayer that so provides.

(4) *Injections in volumes less than the volumes specified in the project plan.* For purposes of this paragraph (d), injections in volumes significantly less than the volumes specified in the project plan, the unit plan of development, or another similar plan do not constitute the first injection of liquids, gases, or other matter.

(5) *Examples.* The following examples illustrate the provisions of paragraph (d) of this section.

Example 1. First injection before return filed. In 1992, L, a calendar year taxpayer, undertakes a qualified enhanced oil recovery project on a property in which L owns an operating mineral interest. L incurs $1,000 of intangible drilling and development costs, which L may elect to deduct under section 263(c) for 1992. The first injection of liquids, gases, or other matter (within the meaning of § 1.43–2(c)) occurs in March 1993. L files a 1992 federal income tax return in April 1993. Because the first injection occurs before the filing of L's 1992 federal income tax return, L may take the $1,000 of intangible drilling and development costs into account in determining the credit for 1992 on that return.

Example 2. First injection after return filed. In 1993, M, a calendar year taxpayer, undertakes a qualified enhanced oil recovery project on a property in which M owns an operating mineral interest. M incurs $2,000 of intangible drilling and development costs, which M elects to deduct under section 263(c) for 1993 The first injection of liquids, gases, or other matter is expected to occur in 1995. M files a 1993 federal income tax return in April 1994. Because the first injection of liquids, gases, or other matter occurs after the date on which M's 1993 federal income tax return is filed in April 1994, M may take the $2,000 of intangible drilling and development costs into account on an amended return for 1993 after the earlier of the date the first injection of liquids, gases, or other matter occurs, or the date the Internal Revenue Service issues a private letter ruling that provides that M may take the $2,000 into account prior to first injection.

Example 3. First injection more than 36 months after taxable year. N, a calendar year taxpayer owns an operating mineral interest in a property on which N undertakes an immiscible carbon dioxide displacement project. In 1994, N incurs $5,000 in connection with the construction of a pipeline to transport carbon dioxide to the project site. The first injection of liquids, gases, or other matter is expected to occur after the pipeline is completed in 1998. Because the first injection of liquids, gases, or other matter occurs more than 36 months after the close of the taxable year in which the $5,000 is incurred, N may take the $5,000 into account in determining the credit only if N receives a private letter ruling from the Internal Revenue Service that provides that N may take the $5,000 into account prior to first injection.

(e) *Other rules*—(1) *Anti-abuse rule.* Costs paid or incurred with respect to an asset that is acquired, used, or transferred in a manner designed to duplicate or otherwise unreasonably increase the amount of the credit are not qualified enhanced oil recovery costs, regardless of whether the costs would otherwise be creditable for a single taxpayer or more than one taxpayer.

(2) *Costs paid or incurred to acquire a project.* A purchaser of an existing qualified enhanced oil recovery project may claim the credit for any section 43 costs in excess of the acquisition cost. However, costs paid or incurred to acquire an existing qualified enhanced oil recovery project (or an interest in an existing qualified enhanced oil recovery project) are not eligible for the credit.

(3) *Examples.* The following examples illustrate the principles of paragraph (e) of this section.

Example 1. Duplicating or unreasonably increasing the credit. O owns an operating mineral interest in a property with respect to which a qualified enhanced oil recovery project is implemented. O acquires pumping units, rods, casing, and separators for use in connection with the project from an unrelated equipment dealer in an arm's length transaction. The equipment is used for the primary purpose of implementing the project. Some of the equipment acquired by O is used equipment. The costs paid by O for the used equipment are qualified enhanced oil recovery costs. O does not need to determine whether the equipment has been previously used in an enhanced oil recovery project.

Example 2. Duplicating or unreasonably increasing the credit. P and Q are co-owners of an oil property with respect to which a qualified enhanced oil recovery project is implemented. In 1992, P and Q jointly purchases a nitrogen plant to supply the tertiary injectant used in the project P and Q claim the credit for their respective costs for the plant. In 1994, X, a corporation unrelated to P or Q, purchases the nitrogen plant and enters into an agreement to sell nitrogen to P and Q. Because this transaction duplicates or otherwise unreasonably increases the credit, the credit is not allowable for the amounts incurred by P and Q for the nitrogen purchased from X.

Example 3. Duplicating or unreasonably increasing the credit. The facts are the same as in *Example 2.* In addition, in 1995, P and Q reacquire the nitrogen plant from X This constitutes the acquisition of property in a manner designed to duplicate or otherwise unreasonably increase the amount of the credit. Therefore, the credit is not allowable for amounts incurred by P and Q for the nitrogen plant purchased from X.

Example 4. Duplicating or unreasonably increasing the credit. R owns an operating mineral interest in a property with respect to which a qualified enhanced oil recovery project is implemented. R acquires a pump that is installed at the site of the project. After the pump has been placed in service for 6 months, R transfers the pump to a secondary recovery project and acquires a replacement pump for the tertiary project. The original pump is suited to the needs of the secondary recovery project and could have been installed there initially. The pumps have been acquired in a manner designed to duplicate or otherwise unreasonably increase the amount of the credit. Depending on the facts, the cost of one pump or the other may be a qualified enhanced oil recovery cost; however, R may not claim the credit with respect to the cost of both pumps.

Example 5. Acquiring a project. In 1993, S purchases all of T's interest in a qualified enhanced oil recovery project, including all of T's interest in tangible property that is an integral part of the project and all of T's operating mineral interest. In 1994, S incurs costs for additional tangible property that is an integral part of the project and which is used for the primary purpose of implementing the project. S also incurs costs for tertiary injectants that are injected in connection with the project. In determining the credit for 1994, S may take into account costs S incurred for tangible property and tertiary injectants. However, S may not take into account any amount that S paid for T's interest in the project in determining S's credit for any taxable year.

§ 1.43–5 At-risk limitation. [Reserved]

§ 1.43–6 Election out of section 43.

(a) *Election to have the credit not apply*—(1) *In general.* A taxpayer may elect to have section 43 not apply for any taxable year. The taxpayer may revoke an election to have section 43 not apply for any taxable year. An election to have section 43 not apply (or a revocation of an election to have section 43 not apply) for any taxable year is effective only for the taxable year to which the election relates.

(2) *Time for making the election.* A taxpayer may make an election under paragraph (a) of this section to have section 43 not apply (or revoke an election to have section 43 not apply) for any taxable year at any time before the expiration of the 3-year period beginning on the last date prescribed by law (determined without regard to extensions) for filing the return for the

taxable year. The time for making the election (or revoking the election) is prescribed by section 43(e)(2) and may not be extended under § 1.9100–1.

(3) *Manner of making the election.* An election (or revocation) under paragraph (a)(1) of this section is made by attaching a statement to the taxpayer's federal income tax return or an amended return (or, in the case of a Coordinated Examination Program taxpayer, on a written statement treated as a qualified amended return) for the taxable year for which the election (or revocation) applies. The taxpayer must indicate whether the taxpayer is electing to not have section 43 apply or is revoking such an election and designate the project or projects to which the election (or revocation) applies. For any taxable year, the last election (or revocation) made by a taxpayer within the period prescribed in paragraph (a)(2) of this section determines whether section 43 applies for that taxable year.

(b) *Election by partnerships and S corporations.* For partnerships and S corporations, an election to have section 43 not apply (or a revocation of an election to have section 43 not apply) for any taxable year is made, in accordance with the requirements of paragraph (a) of this section, by the partnership or S corporation with respect to the qualified enhanced oil recovery costs paid or incurred by the partnership or S corporation for the taxable year to which the election relates.

§ 1.43–7 Effective date of regulations.

The provisions of §§ 1.43–1, 1.43–2 and 1.43–4 through 1.43–7 are effective with respect to costs paid or incurred after December 31, 1991, in connection with a qualified enhanced oil recovery project. The provisions of § 1.43–3 are effective for taxable years beginning after December 31, 1990. For costs paid or incurred after December 31, 1990, and before January 1, 1992, in connection with a qualified enhanced oil recovery project, taxpayers must take reasonable return positions taking into consideration the statute and its legislative history.

Par. 5. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805

Par. 6. Section 602.101(c) is amended by removing the entries in the table for §§ 1.43–2, 1.43–3T(a)(3) and 1.43–3T(b)(3) and adding the following entries in the table to read as follows:

§ 602.101 OMB control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
* * * *	*
1.32–2	1545–0074
* * * *	*
1.43–3(a)(3)	1545–1292
1.43–3(b)(3)	1545–1292
* * * *	*

Shirley D. Peterson,

Commissioner of Internal Revenue.

Approved: October 21, 1992.

Fred T. Goldberg,

Assistant Secretary of the Treasury.

[FR Doc. 92–27741 Filed 11–20–92; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–4535–2]

Partial Delegation of Authority for the PSD Program to the State of Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: Notice is hereby given that the full delegation of authority for implementing the federal Prevention of Significant Deterioration (PSD) program in the State of Florida for sources subject to both the Florida Electrical Power Plant Siting Act (PPSA) and PSD regulations has been revoked. Partial delegation of authority to implement the administrative and technical aspects of the PSD program previously granted to the State of Florida will remain in place. This partial authority extends only to those sources subject to both the Florida Electrical Power Plant Siting Act (PPSA) and the PSD regulations. It should be noted that Florida's PSD State Implementation Plan (SIP) regulations continue to be the applicable regulations for all other PSD reviews.

EFFECTIVE DATE: Revocation of full delegation is effective as of August 7, 1992.

ADDRESSES: Copies of the letter of revocation and other pertinent EPA letters of delegation may be examined during normal business hours at the following location: Region IV, Air Enforcement Branch, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Gregg Worley of the EPA Region IV Air Enforcement Branch at (404) 347–5014 and at the above address.

SUPPLEMENTARY INFORMATION: The federal PSD program was mandated by Congress in the Clean Air Act, as amended. Regulations to implement the program are found at 40 CFR 52.21. The PSD program is a preconstruction review program designed to protect air quality in areas which are already attaining the National Ambient Air Quality Standards (NAAQS).

Prior to September 1985, the State of Florida operated under full delegation of authority to implement federal PSD regulations for power plants. Full delegation of authority means authority to implement the technical and administrative requirements of the federal PSD program as well as authority to issue final permits. On September 16, 1985, EPA notified the Florida Department of Environmental Regulation (DER) that the Florida PPSA was in conflict with Florida's full delegation of authority to implement the federal PSD program.

Language in the PPSA precluded the issuance of a federally enforceable PSD permit by the Florida Department of Environmental Regulation (DER) since PPSA certification constituted the *sole* license of the State for the approval of the siting, construction, and operation of electrical power plants.

On November 5, 1985, as an intermediate resolution, EPA delegated partial authority to the State of Florida to implement the technical and administrative requirements of the federal PSD program (51 FR 58, January 2, 1986); however, EPA retained final permit issuance authority. On July 1, 1986, the Florida Legislature amended the PPSA in an attempt to extricate the implementation of federal PSD regulations and allow the issuance of PSD construction permits by the DER to sources receiving certification under the PPSA. EPA believed at such time that this amendment to the PPSA would be adequate to address the conflict between the PPSA and the federal PSD program. In 51 FR 37972, October 27, 1986, EPA returned Florida's full delegation to issue PSD construction permits to power plants for which complete applications were issued after July 1, 1986.

In a court case decided before the First District Court of Appeals (case number 91–300 dated December 20, 1991), *Tampa Electric Company (TECO)* vs. *the Florida DER*, the court determined that DER could *not* issue a federally enforceable PSD permit containing conditions which differed from those imposed by the PPSA Siting

Board. The effect of the TECO ruling is to render ineffective the 1986 PPSA amendment and to require, in the absence of further PPSA amendments, that EPA resume final permitting authority over permits for new or modified PPSA sources.

Consequently, pursuant to 40 CFR subpart A (General Provisions), 40 CFR 52.06 (Legal Authority), 40 CFR 52.21(u) (Delegation of Authority), and the letter of revocation dated August 7, 1992, EPA will once again resume permitting authority for electrical power plants in Florida. Pursuant to the letter of revocation dated August 7, 1992, DER will retain partial delegation; that is, the DER will retain technical and administrative functions of the PSD permitting for electrical power plants (see EPA's November 5, 1985, partial delegation letter and also 51 FR 58, January 2, 1986).

Under this partial delegation, the DER will perform the preliminary and final PSD determination for each plant which has received or will receive a PPSA certification. EPA will then, upon review and approval of the determinations, issue federal PSD permits for these sources.

Authority: 42 U.S.C. 7401–7671(q).

Dated: November 9, 1992.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 92–27950 Filed 11–20–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 271

[FRL–4535–4]

Arizona; Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Arizona has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. Those revisions cover the regulation of radioactive mixed waste (mixed waste). The State of Arizona has also applied for final authorization for corrective action components of its hazardous waste program. Previously EPA granted interim authorization for the corrective action components.

The Environmental Protection Agency (EPA) has completed its review of Arizona's applications for mixed waste and corrective action authorization. Subject to public review and comment, EPA has determined that Arizona's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA approves Arizona's hazardous waste program revisions for mixed waste and corrective action. Arizona's applications for program revision is available for further public review and comment.

DATES: Final authorization for Arizona is effective January 22, 1993 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Arizona's program revision applications must be received by the close of business December 23, 1992.

ADDRESSES: Copies of Arizona's program revision applications are available during the business hours of 9 a.m. to 5 p.m. at the following addresses for inspection and copying:

Arizona Department of Environmental Quality, Central Office, Office of Waste Programs, Waste Assessment Section, 3033 N. Central Avenue, Phoenix, Arizona 85012. Phone: 602/207–4213.

Arizona Department of Environmental Quality, Northern Regional Office, 2501 North 4th Street, Suite #14, Flagstaff, Arizona 86004. Phone: 602/779–0313 or 1–800/234–5677.

Arizona Department of Environmental Quality, Southern Regional Office, 4040 East 29th Street, Tucson, Arizona 85711. Phone: 602/628–5651 or 1–800/234–5677.

U.S. EPA Region IX Library-Information Center, 75 Hawthorne Street, San Francisco, California 94105. Phone: 415/744–1510.

Written comments should be sent to April Katsura, U.S. EPA Region IX (H–2–2), 75 Hawthorne Street, San Francisco, California 94105. Phone: 415/744–2026.

FOR FURTHER INFORMATION CONTACT: April Katsura at the above address or phone 415/744–1510.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–266, 268, 124 and 270.

In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the substantially equivalent option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements. All interim authorizations pursuant to section 3006(g)(2) expire on January 1, 1993. EPA assumes responsibility for that portion of the program on that date if a State has not received final authorization for those provisions.

B. Arizona

Arizona initially received final authorization for the base program on November 20, 1985. Arizona received final authorization for revisions to its program on August 6, 1991 and July 13, 1992. On June 12, 1991 and October 16, 1992, Arizona submitted applications for additional revision approvals. Today, Arizona is seeking approval of its mixed waste and corrective action programs in accordance with 40 CFR 271.21(b)(3).

The June 21, 1991 application included the corrective action components of Arizona's hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. Previously, EPA granted interim authorization for the corrective action provisions effective September 11, 1992 (see 57 FR 30905 dated July 13, 1992 and 57 FR 41699 dated September 11, 1992).

In order to receive final authorization for corrective action, a state's definitions of solid and hazardous wastes must be equivalent to EPA's definitions. The definition of hazardous waste must not exclude the hazardous components of mixed waste. (See clarification of Interim Status Qualification Requirements for the Hazardous Components of Radioactive Mixed Waste 51 FR 24504, dated July 3, 1986.) Therefore, mixed waste authorization must precede or be received concurrently with corrective action final authorization. A state cannot receive final authorization for corrective action without an approved mixed waste program in effect.

At the time of its application, Arizona believed that its regulations for mixed waste were not equivalent to and no

less stringent than the federal program. The State has since amended its hazardous waste rules and is now applying for mixed waste authorization. Arizona submitted an application for mixed waste on October 16, 1992.

EPA has reviewed Arizona's applications for corrective action and mixed waste, and has made an immediate final decision that Arizona's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to approve final authorization for Arizona's hazardous waste program revisions for corrective action and mixed waste. The public may submit written comments on EPA's immediate final decision up until December 23, 1992. Copies of Arizona's applications for program revision are available for inspection and copying at the locations indicated in the "**ADDRESSES**" section of this notice.

Approval of Arizona's program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either: (1) A withdrawal of the immediate final decision or (2) a notice containing a response to the comment which either affirms that the immediate final decision takes effect or reverses the decision.

Arizona is applying for authorization for the following Federal hazardous waste regulations:

Federal requirement	State authority
Radioactive Mixed Waste (51 FR 24504, July 3, 1986)	Arizona Revised Statute (ARS) 49-922(A) + (B); Arizona Administrative Code (AAC) R18-8-261(A) + (C).
Amendments to Part B Information Requirements for Disposal Facilities (52 FR 23447, June 22, 1987, as amended on September 9, 1987 at 52 FR 33936)	ARS 49-922(A) + (B); AAC R18-8-270(A).
Hazardous Waste Miscellaneous Units (52 FR 46946, December 10, 1987)	ARS 49-922(A) + (B); AAC R18-8-260(C), 264(A) and 270(A).
Corrective Action (50 FR 28702, July 15, 1985)	ARS 49-922(A) + (B); AAC R18-8-264(A) and 270(A).
Permit Application Requirements Regarding Corrective Action (52 FR 45788, December 1, 1987)	ARS 49-922(A) + (B); AAC R18-8-270(A).
Corrective Action Beyond the Facility Boundary (52 FR 45788, December 1, 1987)	ARS 49-922(A) + (B); AAC R18-8-264(A).

Arizona agrees to review all State hazardous waste permits which have been issued under State law prior to the effective date of this authorization. Arizona agrees to then modify or revoke and reissue such permits as necessary to require compliance with the amended State program. The modifications or revocation and reissuance will be scheduled in the annual State Grant Work Plan.

Arizona is not being authorized to operate any portion of the hazardous waste program on Indian lands.

C. Decision

I conclude that Arizona's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Arizona is granted final authorization to operate its hazardous waste program as revised.

Arizona is now responsible for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Arizona also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 3013 and 7003 of RCRA.

Compliance with Executive Order 12291: The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification under the Regulatory Flexibility Act: Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Arizona's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This document is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: November 10, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92-28177 Filed 11-20-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7557]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 457, Lanham, MD 20706, (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C

Street, SW., room 417, Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 11291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Date certain Federal authorization/cancellation of sale of flood insurance in community	Current effective map date
Regular Program Conversions			
Region II			
New York:			
Allen, Town of Allegany County	361361	November 4, 1992 Suspension Withdrawn.	July 16, 1982.
Bolivar, Town of Allegany County	361097	do	July 30, 1982.
Burke, Town of Franklin County	361394	do	Feb. 19, 1986.
Butternuts, Town of Otsego County	361247	do	Dec. 23, 1983.
Cobleskill, Village of Schoharie County	361573	do	Jan. 19, 1983.
Cold Spring, Town of Cattaraugus County	360064	do	Mar. 1, 1978.
Dickinson, Town of Franklin County	361122	do	Mar. 18, 1986.
Farmersville, Town of Cattaraugus County	360071	do	July 23, 1982.
Ischua, Town of Cattaraugus County	360079	do	Aug. 15, 1978.
Italy, Town of Yates County	360958	do	July 23, 1982.
Lyndon, Town of Cattaraugus County	360083	do	July 16, 1982.
Minerva, Town of Essex County	361153	do	Oct. 5, 1984.
Moriah, Town of Essex County	361389	do	Sept. 24, 1984.
Morristown, Town of St. Lawrence County	360706	do	Aug. 6, 1982.
Ohio, Town of Herkimer County	361408	do	Sept. 24, 1984.
Rensselaerville, Town of Albany County	360014	do	Aug. 27, 1982.
South Dayton, Village of Cattaraugus County	360099	do	Jan. 5, 1978.
Villenova, Town of Chautaugua County	361082	do	May 21, 1982.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: November 16, 1992.

C. M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92-28363 Filed 11-20-92; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-146; RM-8019]

Radio Broadcasting Services; Mammoth Lakes, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 293B1 for Channel 292A at Mammoth Lakes, California, and modifies the license for Station KMMT(FM) to specify operation on the higher powered channel, as requested by Mammoth Mountain FM Associates, Inc. See 57 FR 32499, July 22, 1992. Coordinates for Channel 293B1 at Mammoth Lakes are 37-37-40 and 119-01-56. With this action, the proceeding is terminated.

EFFECTIVE DATE: December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-146, adopted October 7, 1992, and released November 17, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1990 M Street, NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 292A and adding Channel 293B1 at Mammoth Lakes.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-28406 Filed 11-20-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-53; RM-7936]

Radio Broadcasting Services; Edmond, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Porter H. Davis, d/b/a Life Broadcasting, Inc., substitutes Channel 250A for Channel 249A at Edmond, Oklahoma, and modifies the license of Station KTNT-FM to specify operation on the alternate Class A channel. See 57 FR 10454, March 26, 1992. Use of Channel 250A will allow Station KTNT-FM to operate with maximum Class A facilities of 6 kW. Channel 250A can be allotted to Edmond in compliance with the Commission's minimum distance separation requirements at Station KTNT-FM's licensed site, at coordinates North Latitude 35-34-11 and West Longitude 97-30-01. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-53, adopted October 5, 1992, and released November 17, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1990 M Street, NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 249A and adding Channel 250A at Edmond.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-28408 Filed 11-20-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-99; RM-7971]

Radio Broadcasting Services; Rock Valley, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Robert M. Mason, substitutes Channel 295C3 for Channel 295A at Rock Valley, Iowa, and modifies Station KQEP's construction permit to specify operation on the higher class channel. See 57 FR 19836, May 8, 1992. Channel 295C3 can be allotted to Rock Valley in compliance with the Commission's minimum distance separation requirements with a site restriction of 15.3 kilometers (9.5 miles) north to accommodate petitioner's desired transmitter site, at coordinates North Latitude 43-20-27 and West Longitude 96-18-34. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-99, adopted October 5, 1992, and released November 17, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1990 M Street NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 295A and adding Channel 295C3 at Rock Valley

Federal Communications Commission

Michael C. Ruger

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau

[FR Doc. 92-28409 Filed 11-20-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-72; RM-7928]

Radio Broadcasting Services; Hatteras, NC

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: The Commission, at the request of Hurricane Communications, substitutes Channel 233C1 for Channel 232A at Hatteras, North Carolina, and modifies Station WVAV's construction permit to specify operation on the higher class channel. See 57 FR 10750, March 30, 1992. Channel 233C1 can be allotted to Hatteras in compliance with the Commission's minimum distance separation requirements at the site specified in Station WVAV's permit, at coordinates North Latitude 35-15-38 and West Longitude 75-35-02. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-72, adopted October 5, 1992, and released November 17, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1990 M Street NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Channel 232A and adding Channel 233C1 at Hatteras

Federal Communications Commission

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau

[FR Doc. 92-28410 Filed 11-20-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-147; RM-7951]

Radio Broadcasting Services; Fruitland and Weiser, ID

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: This document reallots Channel 257A from Weiser, Idaho, and modifies the license of Station KWEI(FM) to specify Channel 258C1, Fruitland, Idaho, as its community of license, at the request of Treasure Valley Broadcasting Company. The allotment of Channel 258C1 to Fruitland will provide that community with its first local transmission service, in accordance with Section 1.420(i) of the Commission's Rules. See 57 FR 31691, July 17, 1992. Channel 258C1 can be allotted to Fruitland in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.3 kilometers (3.9 miles) south. The coordinates are North Latitude 44-03-44 and West Longitude 116-54-22. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-147, adopted October 8, 1992, and released November 17, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1990 M Street NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1 The authority citation for Part 73 continues to read as follows.

Authority: 47 U.S.C. 154, 303

§ 73.202 [Amended]

2 Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Weiser, Channel 257A, and adding Fruitland, Channel 258C1.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-28411 Filed 11-20-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 675

[Docket No. 920944-2302]

RIN 0648-AE80

Groundfish Fishery of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement the Western Alaska Community Development Quota (CDQ) program pursuant to Amendment 18 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands (BSAI) Area. This action is necessary to prescribe administrative procedures for the CDQ program. It is intended to promote the goals and objectives of the North Pacific Fishery Management Council (Council) with respect to groundfish management in the BSAI area.

DATES: Effective Date: November 18, 1992.

ADDRESSES: Individual copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) may be obtained from the Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: David C. Ham, Fishery Management Biologist, Alaska Region, NMFS, (907) 586-7230.

SUPPLEMENTARY INFORMATION:

Background

Domestic and foreign groundfish fisheries in the exclusive economic zone of the BSAI area are managed by the Secretary of Commerce (Secretary) in accordance with the BSAI FMP. The FMP was prepared by the Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations for the foreign fishery at 50 CFR 611.93 and for the U.S. fishery at 50 CFR part 675. General regulations that also pertain to the U.S. fishery appear at 50 CFR part 620.

Amendment 18, or the "inshore-offshore" amendment, was partially disapproved by the Secretary on March 4, 1992. The final rule implementing the approved portion of Amendment 18 (57 FR 23321, June 3, 1992) established inshore and offshore allocations of pollock for the remainder of 1992, and provided for an annual allocation of pollock for the CDQ program for a temporary period from 1992 through 1995. The CDQ allocation provides for 7.5 percent of the total allowable catch (TAC) of pollock for each BSAI subarea to be set aside in a "CDQ reserve." This regulatory amendment fully implements the CDQ program by specifying the contents of Community Development Plans (CDPs) and the criteria and procedures for approval by the Secretary. Approval of a CDP by the Secretary would result in an allocation of part of the CDQ reserve to specific western Alaska communities. The CDQ program is intended to help develop commercial fisheries in western Alaska communities.

Current regulations require publication of proposed and final specifications of the TAC of pollock and other groundfish species in the **Federal Register** (50 CFR 675.20(a)). Regulations at § 675.20(a)(3) require 15 percent of the amount of each species TAC to be assigned to a reserve that is not specific to any species. One half of the amount of pollock that is assigned to the non-specific reserve for each subarea is then re-assigned to the CDQ reserve. For the 1992 fishing year, the CDQ reserve is 97,500 metric tons (mt) in the Bering Sea subarea, 3,870 mt in the Aleutian Islands subarea, and 75 mt in the Bogoslof subarea. These amounts are available for harvest under approved CDPs until December 31 1992. During the years 1993, 1994, and 1995, the Secretary, in consultation with the Council, will publish proposed and final seasonal allowances of the CDQ reserve in the **Federal Register** under § 675.20(a)(7).

An analysis of the economic problems of western Alaska communities, and of the biological, economic, and social impacts of various alternative management measures considered by NMFS is contained in the EA/RIR/FRFA, which is available (see **ADDRESSES**). A full description of the CDQ program was published October 7, 1992, in the preamble to the proposed rule at 57 FR 46139.

Implementation of CDQ Program

NMFS will require 100 percent observer coverage and will use the "best blend" system, which is a combination of observer data and vessel data, to monitor pollock harvests accurately. CDQ harvesting probably will be fast paced and will require daily submission of observer reports and vessel production reports. The representative designated by the managing organization will be notified when the CDQ allocation to the approved CDP has been reached; however, it is the managing organization's responsibility to monitor its vessels' harvest and stop fishing when the allocation has been reached. Notwithstanding absence of notification of the designated representative by NMFS, the operation of a vessel that is harvesting a CDQ allocation of pollock when that allocation has been taken is prohibited.

The harvesting of pollock under an approved CDP must take place according to all existing Federal regulations except that a vessel included in the offshore component may harvest its CDQ allocation in the catcher vessel operational area (CVOA) when directed fishing is closed for the offshore component. Presently, the BSAI pollock TAC is apportioned in three parts: Inshore component, offshore component, and CDQ. Directed fishing for pollock by the inshore and offshore components must occur during the "A" season (January 1-April 15) or "B" season (June 1-December 31). However, CDQ harvesting may occur during these seasons or between these seasons depending on seasonal allocations of CDQ recommended by the Council and approved by the Secretary.

Changes in the Final Rule From the Proposed Rule

This final rule includes the following changes from the proposed rule:

(1) In § 675.27(b)(3)(1), language is added to require a managing organization to specify the address, FAX, and telephone number, of a designated representative. This person would serve as the principal liaison between the managing organization and NMFS. When the harvest of pollock under an approved CDP has been reached, the Regional Director will prohibit further fishing by that CDP by FAX or by telephone message to the indicated FAX or telephone number. However, the managing organization of an approved CDP is responsible to prevent pollock harvesting in excess of its CDQ allocation, regardless of any notification from NMFS to that effect. The clarify this assignment of responsibility, § 675.7(j) is changed by adding a paragraph prohibiting the operation of a vessel engaged in harvesting a pollock CDQ allocation in excess of that allocation. These additions are necessary to prevent harvesting of CDQs in excess of amounts authorized under the CDP.

(2) Proposed § 675.27(d)(5)(iv) is changed by adding paragraph (E) that states that the Governor must take into account the success or failure of the applicant and/or the managing organization in the execution of a prior CDP when developing his recommendation for approval of CDPs. This is necessary to ensure that the performance of the applicant and/or managing organization in a 1992–1993 CDP is taken into account by the Governor and the Secretary when allocating 1994–1995 CDQs.

(3) Proposed § 675.22(g) is amended to allow offshore component vessels fishing for pollock under an approved CDP to fish in the CVOA when directed fishing for pollock by the offshore component is prohibited. This provision allows the managing organization and the CDP to have the flexibility to enter into a business arrangement with any vessel, whether part of the inshore or offshore component, to harvest CDQs. This change is made in response to comment 2.

(4) Proposed § 675.27(d)(2) and the heading for Table 1 are changed to require the Governor and the Secretary to make findings on the eligibility of a community only if it is not listed on Table 1. This change is made in response to comment 3.

(5) Language in proposed § 675.27(d)(2)(iv) is changed from "substantial fisheries participation" to "substantial ground fish fisheries participation" to precisely reflect the intent of the Council. This change is made in response to comment 4.

(6) Proposed § 675.27(e)(3) is changed to allow CDQ harvesting partners the flexibility to change harvesting vessels quickly due to unforeseen circumstances such as mechnical breakdowns. This change is made in response to comment 5.

(7) Proposed § 675.27(b)(2)(x) is changed to relieve the proposed requirement for burdensome and

confidential financial information about the managing organization to be submitted in the CDP. This change is made is response to comment 6.

(8) Proposed § 675.27(d)(2)(iii) is revised to change the language, "waters of the Bering Sea" to "Bering Sea and Aleutian Islands management area and adjacent waters." This change is in response to comment 7 and will eliminate confusion by using a term already defined at § 675.2.

(9) Paragraph (a)(3) is added to § 675.27 specifying that before sending his recommendations for approval of CDPs to the Secretary, the Governor must consult with the Council, and make available, upon request, CDPs that are not part of the Governor's recommendations. This change is made is response to comment 8, and will ensure that the Council will be able to review all proposed CDPs, not just those recommended by the Governor.

Response to Comments on the Proposed Regulations

Thirty-eight letters of comment were received during the public comment period. Of these letters, 29 were in favor of the CDQ program, 4 were against, and 5 letters commented on specific details of the proposed rule without expressing an opinion for or against approval. Many of the letters received were similar, which allowed for some consolidation of the comments. Significant issues and concerns raised by these comments are summarized and responded to as follows:

Comment 1: The CDQ program would benefit the western Alaska communities who are in need of this support and assist them in developing their own self-sufficiency in the commercial fishing industry. However, the CDQ final regulations should be issued as soon as possible. Millions of dollars, or approximately 25 percent of the benefits to these western Alaska communities over the life of the program will be lost if the final regulations are delayed and insufficient time remained to harvest 1992 CDQ allocations.

Response: NMFS notes this comment.

Comment 2: The proposed regulations do not allow the harvesting of CDQ within the CVOA. Amendment 18 allocated fishery resources between the inshore and offshore components of the pollock fishery in the BSAI and established the CVOA to prevent preemption of the inshore component by the offshore component. There is no reason to apply the CVOA restriction to CDQ harvesting when fishing by the offshore component is closed because there will be no preemption at that time. Opening the CVOA to CDQ harvesting would maximize benefits of the CDQ program. Production and overhead costs would be lower and product quality would be higher if access to the CVOA were allowed.

Response: NMFS concurs. The regulations at § 675.22(g) are changed to allow CDQ harvesting in the CVOA when directed fishing by the offshore component is prohibited.

Comment 3: The proposed regulations require that the Governor make findings that each community that is part of a recommended CDP meets the community eligibility criteria which are listed at § 675.27(d)(2). This is an unnecessary burden because the State of Alaska has determined that the communities listed in Table 1 are eligible and should be deemed eligible. The Governor should only be required to make findings on the eligibility of a community if it is not listed in Table 1.

Response: NMFS concurs. The State of Alaska has submitted information with its comments on the CDQ proposed rule that evaluate the list of communities in Table 1 against the community eligibility criteria at § 675.27(d)(2). The State of Alaska has concluded that the list of communities in Table 1 meet these eligibility criteria. The Secretary has reviewed this information in the record and agrees that the communities listed in Table 1 meet these criteria. The regulations at § 675.27(d)(2) and the heading for Table 1 are changed to require the Governor to provide to the Secretary findings of community eligibility only if the community is not listed in Table 1.

Comment 4: Proposed § 675.27(d)(2)(iv) states: "the community must not have previously developed harvesting or processing capability sufficient to support substantial fisheries participation in the BSAI. . . ." However, the Council approved language that specified "substantial groundfish fisheries" in this context. The proposed regulations should be changed from "substantial fisheries participation" to "substantial groundfish fisheries participation" to be consistent with the intent of the Council.

Response: NMFS concurs. The regulations at § 675.27(d)(2)(iv) are changed to include the word "groundfish."

Comment 5: Proposed § 675.27(b)(2)(i) requires the name and permit number of each vessel that will be used to harvest a CDQ allocation. Breakdowns, re-scheduling, weather or other unforeseen conditions would cause difficulty anticipating which vessels of a fishing corporation will be available for fishing. A mechanism is needed to allow a quick change in the list of CDQ harvesting vessels that appears on the CDP so that a substitute vessel can immediately begin fishing.

Response: NMFS concurs. The regulations at § 675.27(e)(3) are changed to allow an amendment to a CDP regarding a vessel change to have tentative approval upon receipt of the amendment by the Governor, pending final approval of the amendment under the procedure specified at § 675.27(e)(3). This change will give fishing corporations the ability to harvest CDQs if a regularly scheduled vessel is incapacitated due to mechanical breakdowns or other reasons.

Comment 6: The proposed regulations at § 675.27(b)(2)(x) state that a CDP must contain a "balance sheet and income statement, including profit, loss, and return on investment on all business ventures within the previous 12 months by the applicant and/or managing organization." This would require diversified companies that would work as the managing organization to divulge proprietary financial information to the public to participate in the program. This burdensome requirement should be changed to be consistent with the criterion approved by the Council, which states that a proposed CDP must contain a "balance sheet and income statement, including profit, loss, and return on investment" for the CDP.

Response: NMFS concurs. The final rule is changed at § 675.27(b)(2)(x) to be consistent with the Council's intent.

Comment 7: Proposed § 675.27(d)(2)(iii) states that for a community to be eligible it must conduct more than one-half of its current commercial or subsistence fishing effort "in the waters of the Bering Sea." The term "Bering Sea" should be defined in these regulations to eliminate confusion about the meaning of this criterion.

Response: NMFS concurs and revised § 675.27(d)(2)(iii) to substitute "Bering Sea and Aleutian Islands management area and adjacent waters," which is defined at § 675.2, for the undefined term "Bering Sea."

Comment 8: The regulations specify that the Council will be consulted on the Governor's recommendations for approval of CDPs. This procedure will not give the Council an opportunity to review any of the proposed CDPs that were not recommended by the Governor.

Response: NMFS concurs and adds § 675.27(a)(3) to read as follows: "Before sending his recommendations for approval of CDPs to the Secretary, the Governor must consult with the Council, and make available, upon request, CDPs

that are not part of the Governor's recommendations."

Comment 9: The proposed rule at § 675.27(b)(3)(ii)(A) would require a managing organization to receive official documentation of support from each community in the CDP application. This requirement is burdensome and should be left to the relationship between the association and its member communities.

Response: This requirement is necessary to protect the interests of the members of the community. This requirement is an integral part of the CDQ program criteria that were approved by the Council.

Comment 10: The proposed rule at § 675.27(b)(1)(iv) states that the CDP must estimate the number of employee hours that are anticipated to result from the CDP. However, employee hours are not a useful way to measure employment on vessels. Crew months or crew days would be a better method to measure participation.

Response: The number of employee hours anticipated per year will apply not only to vessels, but also to other types of businesses. Crew days could be easily converted to crew hours based on an assumed number of hours that a crew member is expected to work per day.

Comment 11: Requirements for plans to prevent quota overages in § 675.27(b)(2)(iii) should be more specific and use the same "best blend" method currently used by NMFS to manage fisheries quotas.

Response: The "best blend" system may be used by the CDP applicant in a CDP as the basis for monitoring catches and preventing quota overages. NMFS is allowing the CDP applicant to develop their own plan to prevent quota overages to provide the CDQ managing organization with the most flexibility in determining its own system.

Comment 12: Akutan, King Cove, and Sand Point are three communities that have been excluded from participation in the CDQ program. These communities should be included because no adequate justification is given for their exclusion.

Response: The CDQ program applies only to pollock in the BSAI management area. Further, the Council intended the benefits of the program to be limited to communities within a specific geographical area of western Alaska and that do not have substantial groundfish harvesting or processing capability For this reason, § 675.27(d)(2) states that a community is not eligible if it is located on the Gulf of Alaska, or if it has previously developed harvesting or processing capability sufficient to support substantial groundfish fisheries in the BSAI. Akutan has been excluded because it has a large groundfish processing plant. King Cove and Sand Point are excluded because they are located on the Gulf of Alaska.

Comment 13: The regulations should be amended to keep to a minimum the amount of confidential information that must be submitted in a CDP and to protect against the release of any confidential information that is submitted.

Response: According to the provisions of the Paperwork Reduction Act, requests for confidential information in the CDPs have been minimized.

Comment 14: The harvest of CDQ pollock should be exempt from all time and area closures that apply to the non-CDQ "olympic fishery."

Response: The harvest of CDQ pollock must occur within existing regulations pertaining to bycatch, prohibited species, marine mammal management, and other provisions. It is likely that CDQ fisheries will have ample time to harvest their pollock allocations after the non-CDQ inshore and offshore apportionments of the pollock TAC are achieved.

Comment 15: The CDQ for a given year should be available for use up to the beginning of the "A" season of the following year.

Response: Current regulations at § 675.20(a) require specification of the pollock TAC on a calendar year basis. There is no authority to "rollover" unused TAC from one calendar year to the next. Hence, it is not possible to harvest 1992 pollock TAC after December 31, 1992. In addition, the first season, or "A" season begins on January 1 (§ 675.20(a)(2)(ii)). Directed fishing for "A" season pollock has been delayed until late January, in part to reduce the bycatch of salmon in the pollock fishery. Allowance of CDQ fishing during this period in early January would undermine this bycatch management measure.

Comment 16: The CDQ program gives an exclusive allotment of pollock to native Alaskan communities, has the potential to award a disproportionate share of the resource to a single entity, transfers Federal oversight and monitoring of the CDQ program to the State of Alaska, and imposes burdensome and complicated reporting requirements.

Response: The CDQ program is consistent with the Magnuson Act and other applicable law. The Federal government will continue to exercise conservation and management authority over the BSAI area pollock fisheries. Additional information and reporting requirements implemented by this final rule are necessary to assure that the pollock resource will not be overfished under the CDQ program.

Comment 17: The CDQ program resembles an individual fishing quota (IFQ) program and should be managed in a similar way. Using the CDQ program as a test for a potential IFQ program would provide useful information for developing IFQ management measures.

Response: The CDQ program is based on allocation of part of the BSAI pollock TAC to approved CDPs for a specific limited period of time. The Council's proposed IFQ program for halibut and sablefish differs significantly in that participants would receive a transferable harvest privilege that continues indefinitely. However, a similar CDQ program also is proposed as part of the halibut and sablefish IFQ program.

Comment 18: In § 675.27(b), it is required that the Governor shall include in his written findings to the Secretary, that the CDPs meet the requirements of the Alaska Coastal Management Program (ACMP). The CDP is essentially a planning document, and should not be subject to ACMP consistency. Instead, ACMP consistency should be determined during the course of the permitting process that results from an approved CDP.

Response: The CDPs are comprehensive documents that describe in detail the proposed projects that would develop the fishing industry in western Alaska communities. Before the Secretary can approve a proposed CDP that has been recommended by the Governor, the CDP must be consistent with the CDQ regulations, the Magnuson Act, and all other applicable law, including the ACMP.

Comment 19: Native Alaskan communities that participate in the CDQ program may agree to enter into business arrangements that are not fully in their interest because of lack of experience in such business negotiations. Specific regulations that protect the interests of native Alaskan communities should be added to the CDQ regulations.

Response: The risk of making a poor business decision is inherent in virtually all businesses. It would be difficult and probably not appropriate for the Federal government to intervene in this area. To some extent, the requirement for letters of support from the community's governing body will provide incentive for public involvement in each community to assure that an appropriate and informed decision is made regarding contracts with a managing organization. In addition, separate CDPs will be

required for 1992–1993 and 1994–1995 allocations of pollock. This will provide a community that is dissatisfied with its 1992–1993 allocation to renegotiate its contracts for the 1994–1995 allocation.

Comment 20: The CDQ program was approved in concept on June 3, 1992, but its implementation was contingent on subsequent analysis of the program criteria and proposed CDPs. The proposed CDQ program has received only the most cursory cost-benefit analysis and no assessment of how it would produce an overall net benefit to the Nation as required by national standard 1. The CDQ regulations also are unsupported by sufficient economic and social impact analysis, and would not further any conservation or socio-economic purpose. The idea that our Nation's fisheries resources should be "sold" by coastal communities is unprecedented under the Magnuson Act.

Response: NMFS agrees that the pollock CDQ program is unique but does not have economic allocation as its sole purpose. Its primary objective is the achievement of social benefits through the development of fisheries in certain western Alaska communities. The CDQ program as implemented by these regulations is consistent with the Magnuson Act and other applicable law.

Comment 21: Past NMFS policy encouraged capital investment in north Pacific fishing, but allocations of pollock to the CDQ program will require this capital investment to remain idle and will put American fishermen out of work.

Response: NMFS has determined that the CDQ program is consistent with the Magnuson Act and other applicable law.

Comment 22: The CDQ program is a "give-away" welfare program, and is not likely to encourage self-sufficiency.

Response: The CDQ program is designed to provide start-up support for western Alaska communities by allocating a portion of the pollock TAC to them for the development of their local fishing industry.

Comment 23: It is inappropriate to force the investment of money in fisheries in western Alaska communities under the CDQ program. Western Alaska communities are not historically fishing communities and are unlikely to do so in the future. Many have limited access to fisheries because of winter ice conditions and surrounding shallow waters.

Response: For a community to be eligible to receive allocations of CDQs, it must conduct more than one-half its current commercial or subsistence fishing effort in the BSAI management area and adjacent waters.

Comment 24: The CDQ program sets an unusual precedent, is beyond the scope of Federal law, and should be disapproved. The CDQ program violates national standard 4 because it would discriminate between the residents of different states. It fails to meet national standards 5 and 7 because it does not promote efficiency and the maximum utility of resources. The Magnuson Act prohibits the sale of fish or fees by the U.S. Government beyond the necessary fees to cover the cost of issuing permits, but the selling of the right to harvest CDQs by the communities constitutes a fee.

Response: The Magnuson Act and other applicable law does not require maximum efficiency in the use of fishery resources if there are counterbalancing social or biological reasons for less efficiency. The Magnuson Act limits permit fees to the administrative costs of issuing a permit. This provision does not extend to the commercial transfer of such permits. Taxing such transfers for the benefit of the Nation is prohibited under the Magnuson Act. The CDQ program is consistent with the Magnuson Act and other applicable law. For further discussion of these subjects, see the preamble to the final rule of Amendment 18 (57 FR 23321, 23331–33, June 3, 1992).

Comment 25: The CDQ regulations do not require CDQ harvesting to conform to existing regulations except for recordkeeping and reporting requirements, so environmental protection measures could be bypassed.

Response: CDQ harvesting must conform to all existing fisheries regulations, except that CDQ harvesting by vessels that process or deliver to the offshore component is allowed in the CVOA when directed fishing by the offshore component is prohibited and CDQ harvesting may occur between the "A" and "B" seasons depending on seasonal allocations of CDQ approved by the Secretary. The CDQ implementing regulations do not excuse vessels that harvest pollock under an approved CDP from compliance with any other regulation including but not limited to bycatch and environmental regulations.

Comment 26: If the Secretary publishes final approval of the CDPs, the public and the interested communities would not have knowledge of the details of approved CDPs prior to their approval.

Response: The Governor is required by the CDQ regulations to hold a public hearing on the substance of the CDPs that are received by the State. The Secretary may use the transcript from the hearing as well as other information, including CDPs submitted by applicants but not recommended by the Governor for approval, to determine, in part, which CDPs should be approved. The hearing transcript will be available to the public on request. In addition, the Governor must consult with the Council regarding his recommendations, and the Council may review the CDPs that were not recommended by the Governor for approval.

Comment 27: The CDQ regulations violate the appointments clause of the U.S. Constitution because the U.S. Constitution requires that the Nation's executive decisionmakers, such as the Council members, be appointed by the executive branch of the U.S. Government. The Council members are selected, in effect, by the Governor, causing a conflict of interest whereby the CDQ program, which benefits Alaska, is being proposed and promoted by Council members selected by Alaska's Governor.

Response: Although Councils recommend FMPs or FMP amendments, it is the Secretary that decides whether to approve or disapprove a Council's proposal and only the Secretary has the authority to implement an approved FMP or FMP amendment. The delegation of power from the Congress to the Secretary is within the authority of the Appointments Clause. Therefore, the Secretary's approval of the CDQ regulations does not violate the Appointments Clause of the U.S. Constitution.

Comment 28: The CDQ regulations are not related to the preemption problem of Amendment 18, and if implemented, would do nothing to solve it, and therefore violate the Commerce Clause.

Response: The CDQ regulations do not violate the Commerce Clause. The CDQ Program was not proposed to solve the preemption problem between the inshore and offshore components. It was proposed to further the goals of the BSAI Goundfish FMP by promoting opportunities to improve the economic stability, growth, and self-sufficiency of western Alaska coastal communities.

Comment 29: If the CDQ program is implemented, each CDP should be subject to independent auditing before CDQs are allocated and on every anniversary of the allocation.

Response: The Governor, Council, and Secretary will review each CDP for consistency with the CDQ regulations before the Secretary approves it. The Governor is required under § 675.27(e) to submit an annual report to the Secretary on the performance of each CDP and a recommendation on the continuance of multi-year CDPs. Hence, each CDP will

be evaluated annually to determine if it is being managed according to the approved CDP. Independent review and auditing would create an unreasonable additional information reporting burden and increased costs.

Comment 30: NMFS has failed to satisfy the public comment requirements of the Magnuson Act and the Administrative Procedure Act (APA).

Response: The CDQ proposed rule was filed at the Office of the Federal Register on October 2, 1992, and published in the **Federal Register** on October 7, 1992 (57 FR 46139). Public comments were invited until October 23, 1992. This 22-day comment period meets the requirements of the APA.

Comment 31: Communities participating in the CDQ program do not have the infrastructure and deep water ports to process the pollock allocated to the CDQ program. Russia does have the ports and the infrastructure to process these fish, therefore, a joint venture with Russian business interests should be a part of the CDQ program. Also, other Alaskan cities could offer training opportunities to members of the CDQ communities in exchange for joint use of the CDQ allocation.

Response. The communities receiving CDQ allocations will be free to enter into any legal business relationship to use CDQs. There are no requirements in these regulations that specify what type of business arrangements are acceptable. Compensation to the CDQ communities can take any form, including training, if the final use of the compensation is to develop the fishing industry in the community.

Response to Comments on the EA/RIR/IRFA

Comment 1: In the second paragraph on page 2 of the EA/RIR/IRFA, the following statement is made: "CDQ pollock harvesting will take place during the existing "A" and "B" seasons." This is misleading because the CDQ pollock will most likely be harvested following the close of the "A" and "B" seasons.

Response: Existing regulations at § 675.20(a)(2)(ii) specify that the first, or "A" season, occurs from January 1 through April 15, and the second, or "B" season, occurs from June 1 through December 31. Directed fishing for pollock by CDQ and non-CDQ fisheries may occur during these time periods Hence, a closure of directed fishing within a season does not technically terminate the season. The harvesting of CDQ pollock probably will occur after directed fishing for the offshore and inshore components is closed but before the "A" and "B" seasons end. Harvesting of CDQs may also occur between these seasons depending on seasonal allocations of CDQ approved by the Secretary. NMFS notes this comment and amends the EA/RIR/FRFA at the second paragraph, page 7, to clarify the seasons when CDQ harvesting is allowed.

Comment 2: The EA/RIR/IRFA discusses the community eligibility criterion, which is outlined at Part III(B)(2)(f) in Appendix I, that would ensure the allocation of CDQ pollock to economically depressed communities. This eligibility criterion is not discussed in the proposed rule or regulations.

Response. This community eligibility criterion was removed from the list of community eligibility criteria before publication of the proposed rule and should have been deleted from the EA/RIR/FRFA. It has now been deleted from the EA/RIR/FRFA.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this final rule is necessary for the conservation and management of the groundfish fishery off Alaska and that it is consistent with the Magnuson Act and other applicable law.

The Alaska Region, NMFS, prepared an EA for this proposed rule that discusses the impacts on the environment as a result of this rule and concluded that no significant impact on the human environment will result from its implementation. The public may obtain a copy (see **ADDRESSES**).

The final regulatory flexibility analysis (FRFA), prepared as part of the EA/RIR/FRFA, concludes that this proposed rule, if adopted, would have significant effects on small entities. The FRFA indicates that this rule would tranfer 7.5 percent of the BSAI area pollock TACs to western Alaska communities. In 1992, 7.5 percent of these TACs equals 101,445 mt. At an assumed exvessel price of $0.107 per pound (0.45 kilograms), the total exvessel value would be about $24 million. If the resource rent is 10 percent, the potential proceeds accruing to disadvantaged western Alaska communities would be approximately $2.4 million. These proceeds would be used to fund fisheries development projects designed to establish a permanent commercial fishing industry that would be a basis for future regional economic growth. A copy of this document may be obtained (see **ADDRESSES**)

NMFS concluded formal section 7 consultations on Amendment 18 to the BSAI FMP on March 4, 1992. The biological opinion issued for the consultation concluded that operation of the fishery under the amendment, including the CDQ program, is not likely to jeopardize the continued existence and recovery of any endangered or threatened species. Adoption of the management measures described in this rule will not affect listed species in a way that was not already considered in the biological opinion. Therefore, NMFS has determined that no further section 7 consultation is required for adoption of this action.

The Assistant Administrator has determined that this rule is not a "major rule" requiring a regulatory impact analysis under E.O 12291. Based on the socio-economic impacts discussed in the EA/RIR/FRFA prepared by the Alaska Region, NMFS has concluded that none of the proposed measures in this rule would cause impacts considered major for purposes of E.O. 12291

This rule involves collection-of-information requirements subject to the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. 3501 et seq) that have been approved by the Office of Management and Budget (OMB) under control number 0648–0213. The rule also contains new requirements that have been approved by OMB under control number 0648–0269. Public reporting burden for the new collections are estimated to average 160 hours per response for applications, 40 hours per response for amendments, and 40 hours for annual report submissions. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

NMFS has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. Consistency is automatically inferred because the appropriate State agency did not reply within the statutory time period.

The Department of Commerce's Federalism Implementation Officer has determined that this rule has sufficient

federalism implications to warrant preparation of a Federalism Assessment (FA) under E.O 12612. An FA has been prepared, which concludes that there are no provisions or elements of this proposed rule that are inconsistent with the principles, criteria, and requirements set forth in section 2 through 5 of E.O 12612. Further, this rule does not affect Alaska's ability to discharge traditional state governmental functions or other aspects of state sovereignty

The Assistant Administrator has determined that the provisions providing for a 30-day delay of the effectiveness of this final rule under section 553 of the Administrative Procedure Act will be waived. This determination was reached because a delay in effectiveness would deny the western Alaska communities the opportunity to receive the economic development benefits from the allocations of pollock from the CDQ reserve for 1992.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Dated: November 18, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 675 is amended as follows:

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

1. The authority citation for 50 CFR part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 675.2, new definitions of "Community Development Plan," "Community Development Quota," "Community Development Quota Program," "Community Development Quota Reserve," and "Governor" are added in alphabetical order to read as follows:

§ 675.2 Definitions.

* * * * *

Community Development Plan (CDP) (applicable through December 31, 1995) means a plan for a specific Western Alaska community or group of communities approved by the Governor of the State of Alaska and recommended to the Secretary under § 675.27 of this part.

Community Development Quota (CDQ) (applicable through December 31, 1995) means a western Alaska community development quota for pollock assigned to an approved CDP. All CDQs, in the aggregate, equal one-half of 15 percent of the total allowable catch specified for pollock that is placed in reserve under § 675.20(a)(3) of this part.

Community Development Quota Program (CDQ program) (applicable through December 31, 1995) means the Western Alaska Community Development Program implemented under § 675.27 of this part.

Community Development Quota Reserve (CDQ reserve) (applicable through December 31, 1995) means one-half of 15 percent of the total allowable catch specified for pollock in each subarea that is placed in reserve under § 675.20(a)(3) of this part.

* * * * *

Governor means the Governor of the State of Alaska.

* * * * *

3. In § 675.7, paragraphs (j) and (k) are redesignated as (k) and (l), respectively, and a new paragraph (j) is added to read as follows:

§ 675.7 Prohibitions.

* * * * *

(j) *Applicable through December 31, 1995.*

(1) Participate in a Western Alaska Community Development Quota program in violation of § 675.27 of this part or submit information that is false or inaccurate with a CDP application or request for an amendment; or

(2) Operate a vessel that harvests pollock for credit to a CDQ allocation when that allocation has been fully harvested.

* * * * *

4. In § 675.20, paragraphs (a)(3)(i), (a)(3)(ii), (a)(3)(iii), the first sentence of (a)(7)(i), and the first sentence of (a)(7)(ii), are revised and a new paragraph (e)(2)(iv) is added to read as follows:

§ 675.20 General limitations.

(a) * * *

(3) * * *

(i) *Applicable through December 31, 1995.* Any amounts of the nonspecific reserve that are reapportioned to pollock as provided by paragraph (b) of this section must be apportioned between inshore and offshore components in the same proportion specified in paragraph (a)(2)(iii) of this section.

(ii) *Applicable through December 31, 1995.* In the publications of proposed and final harvest limit specifications required under § 675.20(a) of this part, one half of the pollock TAC placed in the reserve for each subarea will be assigned to a CDQ reserve for each subarea. NMFS may add any amount of a CDQ reserve back to the nonspecific reserve if, after September 30, the Regional Director determines that amount will not be used during the remainder of the fishing year.

(iii) *Applicable through December 31, 1995. Application for approval of a CDP and CDQ allocation.* In accordance with Secretarial action under § 675.27 of this part, NMFS may allocate portions of the CDQ reserve for each subarea to one or more eligible communities or groups of communities that have an approved CDP. An application for a CDP and CDQ allocation of pollock must contain the information described in § 675.27(c) of this part. In addition to the requirements in § 675.27, vessels participating in the CDQ program must comply with regulations in this part.

* * * * *

(7) * * *

(i) *Proposed specifications and interim harvest amounts.* As soon as practicable after consultation with the Council, NMFS will publish an action in the **Federal Register** specifying, for the succeeding fishing year, proposed annual TAC and initial TAC amounts for each target species and "other species" category and apportionments thereof among DAP, JVP, and TALFF; prohibited species catch allowances established under § 675.21(b) of this part; seasonal allowances of the pollock TAC; and seasonal allowances of the pollock CDQ reserve. * * *

(ii) *Final specifications.* NMFS will consider comments on the proposed specifications received during the comment period and, after consultation with the Council, will publish an action in the **Federal Register** specifying the final annual TAC for each target species and the "other species" category and apportionments thereof, final prohibited species catch allowances established under § 675.21(b) of this part, final seasonal allowances of the pollock TAC; and seasonal allowances of the pollock CDQ reserve. * * *

* * * * *

(e) * * *

(2) * * *

(iv) Exceeding a CDQ as defined at § 675.2 of this part.

* * * * *

5. In § 675.22, paragraph (g) is revised to read as follows:

§ 675.22 Time and area closures.

(g) *Catcher vessel operational area (applicable through December 31, 1992).* The offshore component of the groundfish fishery may not conduct directed fishing for pollock at any time in the Bering Sea subarea south of 56°00'

N. latitude, and between 163°00′ and 168°00′ W. longitude. Directed fishing for pollock by vessels that process pollock or deliver pollock to the offshore component may operate in this area under an approved CDP and only when such directed fishing is prohibited in the Bering Sea subarea.

6. A new § 675.27 is added to read as follows:

§ 675.27 Western Alaska Community Development Quota Program (applicable through December 31, 1995).

(a) *State of Alaska CDQ regulations.*

(1) The State of Alaska must be able to ensure implementation of the CDPs once approved by the Secretary. To accomplish this, the State must establish a monitoring system that defines what constitutes compliance and non-compliance.

(2) Prior to granting approval of a CDP by the Governor, the Secretary shall find that the Governor developed and approved the CDP after conducting at least one public hearing, at an appropriate time and location in the geographical area concerned, so as to allow all interested persons an opportunity to be heard. The hearing(s) on the CDP do not have to be held on the actual documents submitted to the Governor under section § 675.27(b). Such hearing(s) must cover the substance and content of the proposed CDP in such a manner that the general public, and particularly the affected parties, have a reasonable opportunity to understand the impact of the CDP. The Governor must provide reasonable public notice of hearing date(s) and location(s). The Governor must make available for public review, at the time of public notice of the hearing, all state materials pertinent to the hearing(s). The Governor must include a transcript or summary of the public hearing(s) with the Governor's recommendations to the Secretary in accordance with § 675.27. At the same time this transcript is submitted to the Secretary, it must be made available, upon request, to the public. The public hearing held by the Governor will serve as the public hearing for purposes of Secretarial review under § 675.27(c).

(3) Before sending his recommendations for approval of CDPs to the Secretary, the Governor must consult with the Council, and make available, upon request, CDPs that are not part of the Governor's recommendations.

(b) *CDP application.* The Governor, after consultation with the Council, shall include in his written findings to the Secretary recommending approval of a single or multi-year CDP, that the CDP meets the requirements of these regulations, the Magnuson Act, the Alaska Coastal Management Program, and other applicable law. At a minimum, the submission must discuss the determination of a community as eligible; information regarding community development, including goals and objectives; business information; and a statement of the managing organization's qualifications. For purposes of this section, an eligible community includes any community or group of communities that meets the criteria set out in paragraph (d)(2) of this section. Applications for a CDP must include the following information:

(1) *Community development information.* Community development information includes:

(i) The goals and objectives of the CDP;

(ii) The allocation of CDQ pollock requested for each subarea defined at § 675.2;

(iii) The length of the time the CDP and allocation will be necessary to achieve the goals and objectives of the CDP, including a project schedule with measurable milestones for determining progress;

(iv) The number of individuals to be employed under the CDP, the nature of the work provided, the number of employee-hours anticipated per year, and the availability of labor from the applicant's community(ies);

(v) Description of the vocational and educational training programs that a CDQ allocation under the CDP would generate;

(vi) Description of existing fishery-related infrastructure and how the CDP would use or enhance existing harvesting or processing capabilities, support facilities, and human resources;

(vii) Description of how the CDP would generate new capital or equity for the applicant's fishing or processing operations;

(viii) A plan and schedule for transition from reliance on the CDQ allocation under the CDP to self-sufficiency in fisheries; and

(ix) A description of short- and long-term benefits to the applicant from the CDQ allocation.

(2) *Business information.* Business information includes:

(i) Description of the intended method of harvesting the CDQ allocation, including the types of products to be produced; amounts to be harvested; when, where, and how harvesting is to be conducted; and names and permit numbers of the vessels that will be used to harvest a CDQ allocation;

(ii) Description of the target market for sale of products and competition existing or known to be developing in the target market;

(iii) Description of business relationships between all business partners or with other business interests, if any, including arrangements for management, audit control, and a plan to prevent quota overages. For this section, business partners means all individuals who have a financial interest in the CDQ project;

(iv) Description of profit sharing arrangements;

(v) Description of all funding and financing plans;

(vi) Description of joint venture arrangements, loans, or other partnership arrangements, including the distribution of proceeds among the parties;

(vii) A budget for implementing the CDP;

(viii) A list of all capital equipment;

(ix) A cash flow and break-even analysis; and

(x) A balance sheet and income statement, including profit, loss, and return on investment for the proposed CDP.

(3) *Statement of managing organization's qualifications.*

Statement of the managing organization's qualifications includes:

(i) Information regarding its management structure and key personnel, such as resumes and references; and includes the name, address, FAX number, and telephone number of the managing organization's representative; and

(ii) A description of how the managing organization is qualified to manage a CDQ allocation and prevent quota overages. For purposes of this section, a qualified managing organization means any organization or firm that would assume responsibility for managing all or part of the CDP and would meet the following criteria:

(A) Documentation of support from each community represented by the applicant for a CDP through an official letter of support approved by the governing body of the community;

(B) Documentation of a legal relationship between the CDP applicant and the managing organization, which clearly describes the responsibilities and obligations of each party as demonstrated through a contract or other legally binding agreement; and

(C) Demonstration of management and technical expertise necessary to carry out the CDP as proposed by the CDP application.

(c) *Secretarial review and approval of CDPs.*

(1) Upon receipt by the Secretary of the Governor's recommendation for approval of proposed CDPs, the Secretary will review the record to determine whether the community eligibility criteria and the evaluation criteria set forth in paragraph (d) of this section have been met. The Secretary shall then approve or disapprove the Governor's recommendation within 45 days of its receipt. In the event of approval, the Secretary shall notify the Governor and the Council in writing that the Governor's recommendations for CDPs are consistent with the community eligibility conditions and evaluation criteria under paragraph (d) of this section and other applicable law, including the Secretary's reasons for approval. Publication of the decision, including the percentage of the CDQ reserve for each subarea allocated under the CDPs, and the availability of the findings will be published in the **Federal Register**. The Secretary will allocate no more than 33 percent of the total CDQ to any approved CDP application. A community may not concurrently receive more than one pollock CDQ allocation, and only one CDP per community will be approved.

(2) If the Secretary finds that the Governor's recommendations for CDQ allocations are not consistent with the criteria set forth in these regulations and disapproves the Governor's recommendations, the Secretary shall so advise the Governor and the Council in writing, including the reasons therefor. Notice of the decision will be published in the **Federal Register**. The CDP applicant may submit a revised CDP to the Governor for submission to the Secretary. Review by the Secretary of a revised CDP application will be in accordance with the provisions set forth in this section.

(d) *Evaluation criteria.* The Secretary will approve the Governor's recommendations for CDPs if the Secretary finds the CDP is consistent with the requirements of these regulations, including the following:

(1) Each CDP application is submitted in compliance with the application procedures described in § 675.27(b);

(2) Prior to approval of a CDP recommended by the Governor, the Secretary will review the Governor's findings to determine that each community that is part of a CDP is listed on Table 1 or meets the following criteria for an eligible community:

(i) The community must be located within 50 nautical miles from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or on an island within the Bering Sea. A community is not eligible if it is located on the Gulf of Alaska coast of the North Pacific ocean even if it is within 50 nautical miles of the baseline of the Bering Sea;

(ii) The community must be certified by the Secretary of the Interior pursuant to the Native Claims Settlement Act (Pub. L. 92-203) to be a native village.

(iii) The residents of the community must conduct more than one-half of their current commercial or subsistence fishing effort in the waters of the Bering Sea and Aleutian Islands management area.

(iv) The community must not have previously developed harvesting or processing capability sufficient to support substantial groundfish fisheries participation in the BSAI, except if the community can show that benefits from an approved CDP would be the only way to realize a return from previous investments. The communities of Unalaska and Akutan are excluded under this provision.

(3) Each CDP application demonstrates that a qualified managing organization will be responsible for the harvest and use of the CDQ allocation pursuant to the CDP;

(4) Each CDP application demonstrates that its managing organization can effectively prevent exceeding the CDQ allocation; and

(5) The Governor has found for each recommended CDP that:

(i) The CDP and the managing organization are fully described in the CDQ application, and have the ability to successfully meet the CDP milestones and schedule;

(ii) The managing organization has an adequate budget for implementing the CDP, and that the CDP is likely to be successful;

(iii) A qualified applicant has submitted the CDP application and that the applicant and managing organization have the support of each community participating in the proposed CDQ project as demonstrated through an official letter approved by the governing body of each such community; and

(iv) The following factors have been considered:

(A) The number of individuals from applicant communities who will be employed under the CDP, the nature of their work, and career advancement;

(B) The number and percentage of low income persons residing in the applicant communities, and the economic opportunities provided to them through employment under the CDP;

(C) The number of communities cooperating in the application;

(D) The relative benefits to be derived by participating communities and the specific plans for developing a self-sustaining fisheries economy; and

(E) The success or failure of the applicant and/or the managing organization in the execution of a prior CDP.

(6) For purposes of this paragraph, "qualified applicant" means:

(i) A local fishermen's organization from an eligible community, or group of eligible communities, that is incorporated under the laws of the State of Alaska, or under Federal law, and whose board of directors is composed of at least 75 percent resident fishermen of the community (or group of communities) that is (are) making an application; or

(ii) A local economic development organization incorporated under the laws of the State of Alaska, or under Federal law, specifically for the purpose of designing and implementing a CDP, and that has a board of directors composed of at least 75 percent resident fishermen of the community (or group of communities) that is (are) making an application.

(7) For the purpose of this paragraph, "resident fisherman" means an individual with documented commercial or subsistence fishing activity who maintains a mailing address and permanent domicile in the community and is eligible to receive an Alaska Permanent Fund dividend at that address.

(8) If a qualified applicant represents more than one community, the board of directors of the applicant must include at least one member from each of the communities represented.

(e) *Monitoring of CDPs (applicable through December 31, 1995).* (1) Applicants for single-year CDPs are required to submit final reports and applicants for multi-year CDPs are required to submit annual reports to the Governor by June 30 of the year following CDP approval and CDQ allocation. Multi-year CDP annual reports will include information describing how the CDP has met its milestones, goals, and objectives. The Governor will submit an annual report to the Secretary on the final status of all single-year CDPs, and recommend whether multi-year CDPs should be continued. The Secretary must notify the Governor in writing within 45 days of receipt of the Governor's annual report, accepting or rejecting the annual report and the Governor's recommendations on multi-year CDQ projects. If the Secretary rejects the Governor's annual report, the Secretary will return the

Governor's annual report for revision and resubmission to the Secretary. The Governor's annual report will be deemed approved if the Secretary does not notify the Governor in writing within 45 days of receipt of the Governor's annual report.

(2) If an applicant requests an increase in CDQ allocation under a multi-year CDP, the applicant must submit a new CDP application for review by the Governor and approval by the Secretary as described in paragraphs (b) and (c) of this section.

(3) Amendments to a CDP will require written notification to the Governor and subsequent approval by the Governor and the Secretary before any change in a CDP can occur. The Governor may recommend to the Secretary that the request for an amendment be approved. The Secretary may notify the Governor in writing of approval or disapproval of the amendment within 30 days of receipt of the Governor's recommendation. The Governor's recommendation for approval of an amendment will be deemed approved if the Secretary does not notify the Governor in writing within 30 days of receipt of the Governor's recommendation. If the Secretary determines that the CDP, if changed, would no longer meet the criteria under paragraph (d) of this section, or if any of the requirements under § 675.27 would not be met, the Secretary shall notify the Governor in writing of the reasons why the amendment cannot be approved. An amendment to the list of names and permit numbers of CDQ harvesting vessels as specified in § 675.27(b)(2)(i) will be approved upon receipt by the Governor unless it is subsequently disapproved by the Governor, or by the Secretary under provisions of this paragraph.

(i) For the purposes of this section, amendments are defined as substantial changes in a CDP, including, but not limited to, the following:

(A) Any change in the relationships among the business partners, including a change in CDQ harvesting vessels;

(B) Any change in the profit sharing arrangements among the business partners, or any change to the budget for the CDP; or

(C) Any change in management structure of the project, including any change in audit procedures or control.

(ii) Notification of an amendment to a CDP shall include the following information:

(A) Description of the proposed change, including specific pages and text of CDP that will be changed if the amendment is approved by the Secretary; and

(B) Explanation of why the change is necessary and appropriate. The explanation should identify which findings, if any, made by the Secretary in approving the CDP may need to be modified if the amendment is approved.

(4) Harvesting operations for a CDQ allocation will stop when the managing organization's representative is informed by the Regional Director that the CDQ allocation has been reached. It is prohibited for a vessel engaged in harvesting a CDQ allocation to continue fishing when the CDP's managing organization's representative has been informed that the CDQ allocation has been reached.

(f) *Suspension or termination of a CDP (applicable through December 31, 1995).*

(1) The Secretary at any time, may partially suspend, suspend, or terminate any CDP upon written recommendation of the Governor setting out his reasons that the CDP recipient is not complying with these regulations. After review of the Governor's recommendation and reasons for a partial suspension, suspension, or termination of a CDP, the Secretary will notify the Governor in writing of approval or disapproval of his recommendation within 45 days of its receipt. In the event of approval of the Governor's recommendation, the Secretary will publish an announcement in the **Federal Register** that the CDP has been partially suspended, suspended, or terminated along with reasons therefor.

(2) The Secretary also may partially suspend, suspend, or terminate any CDP at any time if the Secretary finds a recipient of a CDQ allocation pursuant to the CDP is not complying with these regulations or other regulations or provisions of the Magnuson Act or other applicable law. Publication of suspension or termination will appear in the **Federal Register** along with the reasons therefor.

(3) The annual report for multi-year CDPs, which is required under paragraph (e) of this section, will be used by the Governor to review each CDP to determine if the CDP and CDQ allocation thereunder should be continued, decreased, partially suspended, suspended, or terminated under the following circumstances:

(i) If the Governor determines that the CDP will successfully meet its goals and objectives, the CDP may continue without any Secretarial action.

(ii) If the Governor recommends to the Secretary that an allocation be decreased, the Governor's recommendation for decrease will be deemed approved if the Secretary does not notify the Governor in writing within 30 days of receipt of the Governor's recommendation.

(iii) If the Governor determines that a CDP has not successfully met its goals and objectives, or appears unlikely to become successful, the Governor may submit a recommendation to the Secretary that the CDP be partially suspended, suspended, or terminated. The Governor must set out in writing his reasons for recommending suspension or termination of the CDP. After review of the Governor's recommendation and reasons therefor, the Secretary will notify the Governor in writing of approval or disapproval of his recommendation within 30 days of its receipt. The Secretary would publish a notice in the **Federal Register** that the CDP has been suspended or terminated, with reasons therefor.

(g) *CDQ fishing requirements.* All processors and vessels will be responsible for the following recordkeeping and reporting requirements in addition to existing regulations at § 675.5:

(1) Operators of all vessels fishing CDQs must list all CDQ catch on a Daily Fishing Logbook sheet, as required in § 675.5(b)(2), and clearly write their CDQ identification number on the sheet. A separate sheet must be used for CDQ catch.

(2) A processor receiving CDQ landings must list all CDQ landings on a Daily Cumulative Production Logbook sheet, as required in § 675.5(b)(3), and clearly write the CDQ identification number on the sheet. A separate sheet must be used for CDQ landings.

(3) A processor receiving CDQ landings must list all CDQ landings on a Weekly Production Report sheet, as required in § 675.5(c)(2), and clearly write the CDQ identification number on the sheet. A separate sheet must be used for CDQ landings.

TABLE 1. COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS. OTHER COMMUNITIES MAY ALSO BE ELIGIBLE, BUT DO NOT APPEAR ON THIS TABLE.

Aleutian Region

1. Atka
2. False Pass
3. Nelson Lagoon
4. Nikolski
5. St. George
6. St. Paul

Bering Strait

1. Brevig Mission
2. Diomede/Inalik
3. Elim
4. Gambell
5. Golovin
6. Koyuk
7. Nome

8. Savoonga
9. Shaktoolik
10. St. Michael
11. Stebbins
12. Teller
13. Unalakleet
14. Wales
15. White Mountain

Bristol Bay

1. Alegnagik
2. Clark's Point
3. Dillingham
4. Egegik
5. Ekuk
6. Manokotak
7. Naknek
8. Pilot Point/Ugashik
9. Port Heiden/Meschick
10. South Naknek
11. Sovonoski/King Salmon
12. Togiak
13. Twin Hills

Southwest Coastal Lowlands

1. Alakanuk
2. Chefornak
3. Chevak
4. Eek
5. Emmonak
6. Goodnews Bay
7. Hooper Bay
8. Kipnuk
9. Kongiganak
10. Kotlik
11. Kwigillingok
12. Mekoryuk
13. Newtok
14. Nightmute
15. Platinum
16. Quinhagak
17. Scammon Bay
18. Sheldon's Point
19. Toksook Bay
20. Tununak
21. Tuntutuliak

[FR Doc. 92-28377 Filed 11-18-92; 1:00 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 226
Monday, November 23, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1006, 1012, and 1013

[DA-92-38]

Milk in the Upper Florida, Tampa Bay, and Southeastern Florida Marketing Areas; Notice of Proposed Suspension of Certain Provisions of the Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This docket invites written comments on a proposal to suspend a portion of the producer milk definition of the Upper Florida, Tampa Bay and Southeastern Florida, milk orders. The proposed action would suspend the requirement that 10 days' production of a producer be received each month at a pool plant in order to qualify milk produced on other days for diversion to nonpool plants. The proposed suspension was requested by Florida Dairy Farmers' Association, Tampa Independent Dairy Farmers' Association, Dairymen, Inc., and Southern Milk Sales that want to reduce some inefficient milk movements in order to pool milk normally associated with these markets.

DATES: Comments are due no later than November 30, 1992.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Chief, Order Formulation Branch, USDA/AMS/Dairy Division, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–6274.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and cooperative associations and would tend to ensure that dairy farmers would continue to have their milk priced under the three orders and thereby receive the benefits that accrue from such pricing.

This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This proposed suspension has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. If adopted, this proposed action will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the suspension of the following provisions of the orders regulating the handling of milk in the Upper Florida, Tampa Bay and Southeastern Florida marketing areas is being considered beginning December 1992:

In § 1006.13, paragraph (b)(2).

In § 1012.13, paragraph (b)(2).

In § 1013.13, paragraph (b)(2).

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include December 1992 in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would suspend portions of the producer milk definition of the Upper Florida, Tampa Bay, and Southeastern Florida milk orders. The proposal would suspend the requirement that 10 days' production of a producer be received each month at a pool plant in order to qualify milk produced on other days for diversion to nonpool plants. Under the provisions of all three orders, milk from a producer (10 days' production) must be received at a pool plant each month in order for milk from the producer to be eligible to be diverted to a nonpool manufacturing plant.

The suspension was requested by Florida Dairy Farmers' Association, Tampa Independent Dairy Farmers' Association, Dairymen Inc., and Southern Milk Sales. The proponents contend that they have formed and work through a common marketing agency in order to achieve maximum efficiencies in balancing the needs of the fluid milk plants and in disposing of reserve or excess milk supplies. They stated that when milk of producers who supply the Florida market is not needed, it is often diverted to plants located in other states that are regulated by other Federal milk orders.

The proponents stated that milk that is diverted to other order manufacturing plants, but fails to qualify for diversion under the 10-day requirement, becomes producer milk under the other order and lowers blend prices to producers under the other order. They indicated that the suspension will enable cooperatives to

realize efficiencies in diverting the most distant milk from fluid milk plants. The suspension, they contend, will not threaten the integrity of marketwide pooling because all three orders limit the overall percentage of a handler's milk supply that can be diverted each month. The proponents indicated that the suspension is needed to be effective for the holiday season because of the need to move excess milk supplies off these markets.

Accordingly, it may be appropriate to suspend the aforesaid provisions.

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome and are easy for the public to understand, use or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations. This principle is articulated in President Bush's January 28, 1992, memorandum to agency heads, and in Executive Orders 12291 and 12498. The Department applies this principle to the full extent possible, consistent with law.

The Department has developed and reviewed this regulatory proposal in accordance with these principles. Nonetheless, the Department believes that public input from all interested persons can be invaluable to ensuring that the final regulatory product is minimally burdensome and maximally efficient. Therefore, the Department specifically seeks comments and suggestions from the public regarding any less burdensome or more efficient alternative that would accomplish the purposes described in the proposal. Comments suggesting less burdensome or more efficient alternatives should be addressed to the agency as provided in this Notice.

List of Subjects in 7 CFR Parts 1006, 1012, and 1013

Milk marketing orders.

The authority citation for 7 CFR parts 1006, 1012, and 1013 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Dated: November 16, 1992.

Kenneth C. Clayton,

Deputy Administrator for Marketing Programs.

[FR Doc. 92–28289 Filed 11–20–92; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1011

[DA–92–32]

Milk in the Tennessee Valley Marketing Area; Notice of Proposed Temporary Reduction of Supply Plant Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites public comments on a proposal to temporarily reduce a supply plant shipping requirement for the months of March 1993 through July 1993 under the Tennessee Valley order. The proposed revision would reduce from 40 percent to 30 percent the supply plant shipping requirements. This action was requested by a proprietary supply plant operator that recently became associated with this market and indicated that without this reduction their organization would have to engage in uneconomic movements of milk in order to pool some of the milk received at their plant.

DATES: Comments are due no later than December 23, 1992.

ADDRESSES: Comments (two copies) should be sent to USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Chief, Order Formulation Branch, USDA/AMS/Dairy Division, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456 (202) 720–6274.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action would not have a significant economic impact on a substantial number of small entities. This action would also tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This proposed temporary revision of rules has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. If adopted, this proposed action will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the provisions of § 1124.7(c) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Tennessee Valley marketing area is being considered for the months of March 1993 through July 1993.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 30th day after publication of this notice in the **Federal Register.**

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

In order for a supply plant to maintain its pool status, the Tennessee Valley order requires such plants to ship to pool distributing plants a minimum of 60 percent of the total quantity of milk physically received at the supply plant during the months of August through November and January and February and 40 percent in each of the other months. The order also provides authority for the Director of the Dairy Division to increase or decrease this supply plant shipping requirement by up to 10 percentage points if such a revision

is necessary to obtain needed shipments or to prevent uneconomic shipments.

Armour Food Ingredients Company (Armour), a proprietary supply plant operator that recently became pooled under this order, requested the revision. Armour asserts that its Springfield, Kentucky, plant can meet the 60 percent shipping requirement during the fall months of the year by supplying the fluid milk plant operated by Southern Belle Dairy at Somerset, Kentucky. Armour indicated that they would have difficulty meeting the 40 percent shipping requirement in the spring, since milk production increases and distributing plants need a lessor proportion of the market's milk supply. The handler claimed that this could result in some of their producers not having their milk pooled or Armour would have to engage in some inefficient and uneconomical hauling of milk to pool this milk. Armour has also requested that the order be amended to provide supply plants with automatic pooling in the spring and summer months after meeting the performance requirements during the previous fall months.

Thus, it may be appropriate to reduce the pool supply plant shipping standard from March through July.

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome and are easy for the public to understand, use or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations. This principle is articulated in President Bush's January 28, 1992, memorandum to agency heads, and in Executive Orders 12291 and 12498. The Department applies this principle to the full extent possible, consistent with law.

The Department has developed and reviewed this regulatory proposal in accordance with these principles. Nonetheless, the Department believes that public input from all interested persons can be invaluable to ensuring that the final regulatory product is minimally burdensome and maximally efficient. Therefore, the Department specifically seeks comments and suggestions from the public regarding any less burdensome or more efficient alternative that would accomplish the purposes described in the proposal. Comments suggesting less burdensome or more efficient alternatives should be addressed to the agency as provided in this Notice.

List of Subjects in 7 CFR Part 1011

Milk marketing orders.

The authority citation for 7 CFR part 1011 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: November 16, 1992.

W.H. Blanchard,

Director, Dairy Division.

[FR Doc. 92–28288 Filed 11–20–92; 8:45 am]

BILLING CODE 3410–02–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loans, Secondary Market

AGENCY: Small Business Administration (SBA).

ACTION: Request for public comments.

SUMMARY: The Small Business Administration is seeking comments on proposed changes to SBA Form 1086, Secondary Participation Guarantee and Certification Agreement. These modifications are intended to address changes in the market and to improve program operations.

DATES: Comments must be submitted on or before January 22, 1993.

ADDRESSES: Comments may be mailed to U.S. Small Business Administration, Office of Financial Assistance, 8th Floor, 409 Third St. SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: James W. Hammersley, Deputy Director, Office of Financing, (202) 205–6493.

SUPPLEMENTARY INFORMATION: The SBA secondary market is an evolving $2.5 billion dollar market designed to facilitate the availability of capital to lenders serving the small business community. When a lender sells the guaranteed portion of an SBA guaranteed loan, it is required to use SBA Form 1086 for the transaction. This form describes the rights and responsibilities of the parties. As the market has evolved, so has this document. SBA is proposing several changes to the current document to address various situations that have developed since the form was last revised approximately four years ago.

The changes generally provide more specificity to existing language in the document. Program participants should take notice of the following proposed changes. This list is not intended to be fully inclusive:

1. The "Date of Final Disbursement" has been added to the Lender Certifications in Section I.

2. Language incorporating the 30 basis point "normal" servicing fee and the 70 basis point premium protection fee has been implemented. This clarification was published in the **Federal Register** on January 29, 1991.

3. The provision for a split wire settlement has been removed. During a recent sample period, fewer than 5 percent of settlements used this facility. It was subject to abuse, including an attempt by an unregistered broker to wire money to a personal checking account.

4. The servicing fee may now adjust at the date of first interest rate adjustment on variable rate loans.

5. The premium refund language has been modified to include borrower prepayments as well as defaults.

6. The grace period for late payments to Colson is changed. Payments will now be due on the 3rd of the month or the next business day if the 3rd is not a business day. The grace period will be two business days after the due date.

The following is the proposed language:

OMB NO. 3245–0185
Exp. Date:

SECONDARY PARTICIPATION GUARANTY AGREEMENT

IMPORTANT INFORMATION

THIS FORM IS TO BE USED FOR THE INITIAL TRANSFER ONLY. ALL SUBSEQUENT TRANSFERS MUST USE THE DETACHED ASSIGNMENT SBA FORM 1088. LOANS SOLD USING SBA FORM 1084 MUST BE CERTIFICATED PRIOR TO RESALE: USE SBA FORM 1085.

A. Lender Certifications. The Lender Certifies, by signing this document, among other things that: (See paragraphs 3, 10 and 20 of the Terms and Conditions herein)

(1) Lender, including its officers, directors and employees, has no knowledge of a default by Borrower and has no knowledge or information that would indicate the likelihood of a default,

(2) Lender has paid the SBA guaranty fee,

(3) The loan is fully disbursed, and

(4) Lender acknowledges that it has no authority to unilaterally repurchase the Guaranteed Interest from Registered Holder without the written consent from the SBA.

B. Borrower Payments. Lender shall send to the Fiscal and Transfer Agent ("FTA") the FTA share of all Borrower

payments received after settlement of the loan sale. LENDER WILL NOT SEND ANY PAYMENTS DIRECTLY TO THE REGISTERED HOLDER OR TO THE BROKER/DEALER. Lender will retain a copy of this Form. Lender will not receive a return copy of this Form after settlement. The Wire transfer receipt from the settlement through FTA will be the Lender's notification that the sale is complete.

C. Lender Payment and Late Payment Penalty. Lender payment and remittance information (SBA Form 1502) shall be due at FTA on the third calendar day of every month, or the next business day if the third is not a business day. On any payment not received in the offices of FTA by 5 pm Eastern Time on the second business day after the third of the month, FTA will, on behalf of SBA, levy a late payment penalty of five percent (5%) of the amount remitted late, or $100, whichever is greater (subject to a maximum penalty of $5,000 per month). This penalty will be paid through FTA along with the late penalty identified in paragraph 6(c) that is due to FTA. (See paragraph 6 of the Terms and Conditions for specific details).

D. Payment Modifications. Lender may approve one deferral of payment for up to three consecutive monthly payments without obtaining prior permission from Registered Holder. Lender shall immediately notify FTA and SBA of any deferral. Any other payment modification must receive prior approval by Registered Holder. Requests for payment modification must be forwarded to FTA which will forward the proposed modification to Registered Holder or provide the name of such Registered Holder to Lender for direct negotiations at Registered Holder's discretion. (See Paragraph 2 of the Terms and Conditions).

E. Borrower Prepayments. For loans approved by or on behalf of SBA after February 14, 1985, Lender must give ten (10) business days advance notice to FTA to allow time for FTA to request that Registered Holder return the Certificate. On the date of prepayment, Lender will wire funds to FTA consisting of principal and accrued interest to the date immediately preceding the date funds are wired, plus any penalty or other fees due to FTA. (See Paragraph 15 of the Terms and Conditions).

F. Lender Repurchases. Unless all conditions in paragraph 20 are met, Lender may repurchase a loan only on a willing buyer-willing seller basis. Lender liquidity or a desire to add loans to a portfolio are not acceptable reasons to pay off a loan at par. (See paragraphs 3 and 20 of the Terms and Conditions for more information.)

Terms and Conditions

The Small Business Administration, an Agency of the United States Government ("SBA") and the Lender named below ("Lender") entered into a guaranty agreement on SBA Form 750 ("750 Agreement") applicable to a loan ("Loan") made by Lender in participation with SBA to the Borrower ("Borrower") named below evidenced by Borrower's Note and any modifications thereto ("Note") a copy of which is attached hereto and incorporated by reference. Lender is the beneficiary under the 750 Agreement of SBA's guaranty of the specified percentage of the outstanding balance of the Loan ("Guaranteed Interest").

Section I: Borrower Information and Lender Certifications

Lender _____

Borrower
Address _____
Zip _____
Address _____
Zip _____
Contact Person _____
Telephone _____
SBA Loan Number _____

Lender Certifies the Following as of the Date of Lender's Signature

Date of 750 Agreement _____
Percent of SBA Guaranty _____
Date of Note _____
Original Face Amount $ _____
SBA Loan Authorization Date _____
(Date of SBA Form 529B)
Outstanding Principal Amount of Loan $ _____
Outstanding Principal Amount of Guaranteed Interest $ _____
(This is the "Par Value")
The SBA Guarantee Fee was Paid on _____
[date]
Date of Final Disbursement of Loan _____
Guaranteed portion has a ☐ fixed rate or ☐ variable rate (check one)
Unguaranteed portion has a ☐ fixed rate or ☐ variable rate (check one)
Interest is paid to, but not including _____ (Date)
Interest is calculated on ☐ 30/360 or ☐ Actual Days/365 (Check one)
(Other Methods are Prohibited)

This Interest Accrual Shall Be Maintained for the Life of the Loan

The servicing fee shall be a minimum of 0.3 percent per annum for all loans. For any Guaranteed Interest sold at a price greater than Par Value, an additional minimum premium protection fee of 0.7 percent per annum is required. For any Guaranteed Interest sold at a price greater than Par Value, the total minimum fees are 1.0 percent per annum.

Except for the period between final disbursement and the first interest adjustment date, lender's total fees must remain constant for the life of the loan. Lender's total fees, as computed on the unpaid principal amount of the Guaranteed Interest shall be entered next to the phrase "Lender's Permanent Fee" below. If this Agreement relates to a variable rate loan, the total fee may be adjusted for the period from final disbursement to the first adjustment date to conform the rate to market rates. If such an adjustment is used, enter the initial fee next to the phrase "Lender's Initial Fee" below.

Lender's Initial Fee _____
Lender's Permanent Fee _____

Price paid for the Guaranteed Interest. (Net of accrued interest. Otherwise include ALL money and other items of value exchanged.)

Price paid by purchaser: $_____ % of Par _____

Cash Flow Yield based upon Constant Prepayment Rate. (Enter both mortgage and bond equivalent yield). For a variable rate loan, the yield should be based upon the current net rate and should be entered as a spread from the Prime Rate. EXAMPLE: Prime +1 percent based upon 10 percent Prime Rate.

Constant Annual Prepayment Rate assumption _____% per annum.

Certificate Interest Rate: _____% (Borrower's Note rate less Lender fees and less FTA Fee (⅛% per annum).

Mortgage Yield: (Fixed Rate Loan) _____% (Variable Rate Loan) Prime (+/−: _____% based on _____% Prime.

Bond Equivalent Yield: (Fixed Rate Loan) _____% (Variable Rate Loan) Prime (+/−_____% based on _____% Prime.

Lender hereby assigns the Guaranteed Interest to Purchaser/Registered Holder as follows:

Name _____
Address _____
Zip Code _____
Contact Person _____
Telephone No _____

Under the penalties of perjury, Purchaser/Registered Holder certifies that its Taxpayer Identification Number is _____ (If a Taxpayer Identification Number is not provided, interest earned will be subject to withholding.)

Registered Holder requests SBA to issue through FTA a Guaranteed Interest Certificate ("Certificate") evidencing ownership of the Guaranteed Interest in the name of Registered Holder (such person or entity, or any subsequent transferee, during its respective period of ownership of the

Certificate to be called "Registered Holder"). SBA, Lender and Registered Holder (for itself and for any subsequent Registered Holder) agree to the appointment by SBA of FTA to serve as the agent to transfer Certificates and to receive from Lender loan repayments made by Borrower, and to transmit such payments to the Registered Holder.

A written notification to or demand upon SBA pursuant to this Agreement shall be made through FTA to:

SBA Servicing Office _____
Address _____
Zip Code _____

SBA Servicing Office Code (Please see attached list of Office Codes at the end of this document) _____

Section II: Lender. Registered Holder and FTA Rights and Responsibilities

1. Lender's Sale of Guaranteed Interest. Lender has sold the Guaranteed Interest and acknowledges that it has received value for that Guaranteed Interest. Lender has given notice and acknowledgment of the transfer of the Guaranteed Interest by completing the following legend on the Note:

The guaranteed portion of this Note has been transferred to a Registered Holder for value.

Dated _____

_____

(Lender)

Lender has delivered or hereby delivers to FTA a photocopy of the Note and any modifications thereto with the original legend; such photocopy shall be incorporated into this Agreement. This legend shall serve as notification for any future transfer of the Guaranteed Interest. The date of the legend shall be on or before the date of settlement for the sale of the guaranteed interest.

2. Loan Servicing. Lender shall remain obligated under the terms and conditions of the 750 Agreement, and shall continue to service the Loan in the manner set forth in the 750 Agreement. Modifications to the 750 Agreement or the Note that do not affect the repayment terms of the Note may be effected by Lender or SBA without the consent of Registered Holder (for itself and any subsequent Registered Holder). Lender, at the request of Borrower, may grant one deferment of Borrower's scheduled payments for a continuous period not to exceed three (3) months of past or future installments. Lender shall immediately notify FTA and the SBA field office in writing of any deferment. The notification will include (i) the SBA Loan Number, (ii) the Borrower's name, (iii) the terms of such deferment, (iv) the date Borrower is to resume payment, and (v) reconfirmation of the basis of interest calculation (e.g. 30/360 or Actual Days/365). Interest is not waived, only deferred. Subsequent to the deferment period, payments received from Borrower will first be applied to accrued interest until such time as interest is paid to a current status, then to principal and interest. Registered Holder may not demand repurchase of the Guaranteed Interest during the deferment period, or before Borrower's failure to pay the first scheduled installment following the deferment period. Lender shall not authorize any additional deferment, or any extension of Loan maturity without the prior written consent of the Registered Holder.

No change in terms and conditions of repayment of the Note other than the deferment authorized in this paragraph shall be made by Lender or SBA without the prior written consent of Registered Holder. A request for such payment modification must be forwarded by Lender to FTA. FTA will forward the proposed modification to Registered Holder. The Registered Holder must respond to the request within thirty (30) calendar days of the date notification is given by FTA. No response will be construed by Lender and FTA as nonconsent, and appropriate action under Paragraphs 10, 11 or 20 of this Agreement will be taken. FTA, at the discretion of Registered Holder, may provide the name of Registered Holder to Lender for direct negotiation of the modification.

3. Representations and Acknowledgment of Lender. Lender hereby certifies that the Loan has been made and fully disbursed to Borrower, and that the full amount of the guaranty fee has been paid to SBA. The outstanding principal amount of the Guaranteed Interest and date to which interest is paid as certified by Lender is accepted by SBA and have been warranted by SBA to the Registered Holder as of the SBA Warranty Date. The Warranty Date is the date this Agreement is executed and settled by FTA. Lender shall be liable to SBA for any damage to SBA resulting from any error in (i) the certified principal amount, (ii) percentage of Guaranteed Interest, and/or (iii) date to which interest is paid. Lender also represents that as of the Warranty Date neither it nor any of its directors, officers, employees, or agents has or should have through the exercise of reasonable diligence, any actual or constructive knowledge of any default by Borrower on the Note, or has any information indicating the likelihood of a default by Borrower or the likelihood of prepayment of the Loan by Borrower by refinancing or otherwise.

If the borrower prepays the loan for any reason within 90 days of the Warranty Date, Lender must refund any premium received.

If the borrower fails to make the first three monthly payments due after the Warranty Date and the borrower enters uncured default within 275 calendar days from the Warranty Date, Lender shall refund any premium received. Borrower payments must be received by the Lender in the month in which they are due and must be full payments.

Liability of lender for refund of premium will not be affected by any deferment granted under paragraph 2 or other payment modification granted during the 90 day period.

SBA shall bear no liability for refund of premium. Lender's failure to refund such premium to Registered Holder may, as determined by SBA, constitute a significant violation of the Rules and Regulations of the Secondary Market.

If Lender has repurchased the Guaranteed Interest pursuant to paragraph 10 or 20, and if the Borrower subsequently makes installment payments on the Note in full for a period of twelve (12) consecutive months, Lender may sell the Guaranteed Interest it has repurchased.

Lender hereby acknowledges that it has no authority pursuant to this Agreement to unilaterally repurchase the Guaranteed Interest from Registered Holder at par without the written consent of SBA.

4. Obligations and Representations of Registered Holder. SBA shall purchase the Guaranteed Interest from Registered Holder pursuant to the terms of this Agreement regardless of whether SBA has any knowledge of possible negligence, fraud or misrepresentation by Lender or Borrower, provided neither Registered Holder nor any person or entity having the beneficial interest in the Guaranteed Interest participated in, or at the time it purchased the Guaranteed Interest had knowledge of, such negligence, fraud or misrepresentation.

Subject to the provisions of 18 U.S.C. 1001 (relating among other things to false claims) Registered Holder, (and any person or entity having the beneficial interest therein), hereby warrants that it was not the Borrower, Lender or an "Associate" of Lender, or anyone standing in the same relationship to Borrower. ("Associate" is defined in title 13, Code of Federal Regulations, part 120). Registered Holder warrants that it had neither participated in nor been aware of any negligence,

fraud or misrepresentation by Lender or Borrower with respect to the Note or related Loan documentation. Neither execution of this Agreement by SBA, nor purchase by SBA from Registered Holder shall constitute any waiver by SBA of any right of recovery against Lender, Registered Holder, or any other person or entity.

Registered Holder (for itself and each subsequent Registered Holder) hereby acknowledges that the Loan may be terminated on a date other than its maturity date. At that time, the Certificate will be called for redemption, at par, and the Registered Holder must submit an affidavit attesting to the provisions of this paragraph. The Certificate will cease to accrue interest as of the date of such termination, regardless of whether the Certificate is surrendered and the affidavit is received.

5. Issuance of Guaranteed Interest Certificates. SBA, Lender, and Registered Holder (for itself and each subsequent Registered Holder) agree that ownership of the Guaranteed Interest shall be evidenced by a Certificate to be issued by SBA. SBA shall issue such Certificate by designating and authorizing such issuance by FTA, or through its own facilities.

FTA shall be the custodian of the executed original of this Agreement. The Agreement shall be delivered to FTA immediately after execution by Lender and Registered Holder. Each Registered Holder shall receive the Certificate described herein. Registered Holder may obtain from FTA a copy of the executed Agreement pertaining to the Guaranteed Interest represented by the Certificate upon payment of a reproduction fee.

Upon execution of this Agreement and delivery to FTA, FTA shall issue to Registered Holder (or to Registered Holder's assignee if FTA is provided written information on a timely basis) the Certificate evidencing the ownership of the Guaranteed Interest in the Loan. If Registered Holder is not the person or entity having the beneficial interest in the Certificate, Registered Holder hereby represents that it has obtained authorization from such holder of beneficial interest appointing Registered Holder as agent for such person or entity with respect to all transactions arising out of the respective obligations under this Agreement.

The Certificate shall identify the Guaranteed Interest and shall state, among other things: (i) Name of Registered Holder, (ii) the Principal Amount of Guaranteed Interest as of the Warranty Date, (iii) the Certificate Interest Rate, and (iv) the Borrower's Payment Date.

Transfer of the Guaranteed Interest by Registered Holder may be effected by the transferee: (i) obtaining from the transferor the executed Detached Assignment and Disclosure Form (SBA Form 1088), (ii) presenting the Certificate and executed Detached Assignment and Disclosure Form to FTA for registration of transfer and issuance of a new Certificate, (iii) paying to FTA a Certificate issuance fee set from time to time by SBA, and (iv) presenting to FTA the exact spelling of the name in which the new Certificate is to be issued, complete address and tax identification number of the new Registered Holder, name and telephone number of the person handling the transfer, and complete instructions for delivery of the new Certificate.

6. Obligations of Lender

(a) FTA must receive from Lender by the third calender day of every month, (or the next business day thereafter if the third is not a business day), the FTA's share of all sums Lender received from Borrower as regularly scheduled payments during the preceding month. By the same date, Lender shall provide the following information on Mandatory Remittance Form (SBA Form 1502), (or an exact facsimile format), with respect to each Loan which Lender has sold to a Registered Holder and which is registered with the FTA. This information will be provided regardless of whether Borrower made a payment in the preceding month. Lender acknowledges that "each Loan" means all loans registered with the FTA regardless of which version of SBA Form 1086 or 1085 was executed at the time of sale or transfer: See Payment Calculation Example Attached to This Agreement.

1. The SBA Loan Number
2. The Alpha abbreviation for the SBA field office
3. The Note interest rate (or rates if the interest rate on a variable rate loan changed during the payment period)
4. The interest amount due the FTA
5. The principal amount due the FTA
6. The total amount due the FTA for the particular Loan
7. The time period covered by the interest rate(s) in Item 3
8. The number of days in the interest period
9. The calendar basis (30/360 or Actual Days/365)
10. The closing principal balance for the Loan
11. A grand total for Items 4, 5 and 6 of all loans sold
12. A late payment penalty (if applicable).

(b) With the exception of prepayments pursuant to Paragraph 15 of this Agreement, payments received other than as regularly scheduled in the previous month must be remitted by Lender to FTA within two (2) business days of receipt of collected funds. Such remittance shall include the information described in Items 1 to 12 above.

(c) As stated in subparagraph (a) above, Lender remittance is due to FTA by the third calendar day of the month following receipt of a regularly scheduled payment. If Lender remittance, including complete payment information as specified in subparagraph (a) is not received in the office of the FTA by 5 p.m. eastern time on the second business day after the due date, Lender shall pay:

(i) a late payment penalty to FTA equal to the interest on the unremitted amount at the rate provided in the Note, less the rate of Lender's servicing fee; and

(ii) a late payment penalty to FTA calculated at a rate of twelve percent (12%) per annum on the unremitted amount; and

(iii) a late payment penalty to SBA (collected by FTA) which is the greater of $100 or five percent (5%) of the unremitted amount.

There is no limit on the penalty calculated in (i) and (ii) above. There is a $5,000 per month per reporting unit limit for the penalty identified in (iii) above. See Example of Late Payment Penalty Calculation Attached to This Agreement. Postmarks Are not Considered. The Requirement is Receipt by FTA.

If these penalty fees are not included in the remittance, FTA, on behalf of SBA, shall levy such late payment penalties on Lender. Failure by Lender to pay such penalty and collection fees within ten (10) business days of receipt of a bill for such fees may constitute a significant violation of the Rules and Regulations of the Secondary Market. FTA and SBA reserve the right to withhold these penalty fees from settlement of any future Guaranteed Interest sale, or any payment made by SBA or FTA to Lender.

FTA will retain the penalty and collection fees due FTA and forward the fee due SBA at the end of each month.

(d) Lender agrees to work with SBA and FTA to reconcile immediately any Loan in which the interest paid-to-date on the Lender's books differs from the books of the FTA by more than three (3) days. Lender agrees to provide a transcript of account within ten (10)

business days of receipt of a request from SBA or FTA. Failure of Lender to provide a transcript upon request may cause the Lender to be fined $100 by SBA.

(e) Lender's total fees as computed on the unpaid principal amount of the Guaranteed Interest for the period of actual services performed by Lender shall remain as specified in section I above for the life of the Loan. These Lender fees are not transferable except to an entity to which servicing of the loan is assigned under the provisions of the Form 750 Agreement and SBA Regulations and Standard Operating Procedures.

(f) Lender agrees to deposit the pro rata share of borrower's payment due to the FTA in a trust account with the name "Colson Services Corp., FTA, in trust for the individual security beneficiaries".

7. Obligations of FTA

(a) FTA shall have the obligation to remit to Registered Holder payments received pursuant to Paragraph 6 of this Agreement, (less applicable fees and penalties, if any), as follows:

(i) Any payment received by FTA before the thirteenth day of the month following Borrower's scheduled payment will be remitted to Registered Holder on the fifteenth day of such month.

(ii) Any payment received by FTA on or after the thirteenth day of the month following Borrower's scheduled payment will be remitted to Registered Holder within two (2) business days of receipt of immediately available funds by FTA. Any late payment penalty received by FTA pursuant to subparagraphs 6(c)(i) and 6(c)(ii) of this Agreement allocated to the period after the fifteenth day of such following month shall be remitted to the Registered Holder. The balance of such penalties shall be retained by FTA.

(iii) Other amounts received from Lender by FTA will be held and applied as required by this Agreement.

(iv) With the prior written consent of SBA, FTA may offset from payments due to Registered Holder any prior overpayments made to Registered Holder.

(b) Prepayments pursuant to Paragraph 15 of this Agreement or full redemption payments received by FTA from Lender or SBA shall be remitted by FTA to Registered Holder by wire transfer within two (2) business days of receipt of immediately available funds by the FTA. Payment on full redemption of the Certificate will be made only after presentation of the Certificate to FTA by Registered Holder. FTA shall retain a final transfer fee upon redemption.

(c) Each remittance by FTA to Registered Holder shall be accompanied by a statement of (i) the amount to interest, (ii) the amount allocable to principal, and (iii) the remaining principal balance as of the date on which such allocations were calculated.

(d) If FTA fails to make timely remittance to Registered Holder in accordance with this Paragraph 7, FTA shall pay to Registered Holder: (i) interest on the unremitted amount at the rate provided in the Note less applicable fees, plus (ii) a late payment penalty calculated at a rate of 12% per annum on the amount of such payment, plus a fee of $100 per loan to SBA.

(e) FTA agrees to identify to Lender each month any Loan in which the paid-to-date on its books by three (3) days or more from the paid-to-date on the books of Lender, provided the information required by Paragraph 6(a) has been submitted to FTA by Lender. Such identified differences will be reconciled on a timely basis.

(f) FTA agrees to issue Certificates within two business days of settlement or receipt of Form of Detached Assignment.

(g) FTA agrees to acknowledge any request from Registered Holder for late payment claims within ten (10) business days of receipt.

(h) FTA agrees to forward to Registered Holder within five (5) business days of receipt, any servicing request requiring concurrence of Registered Holder. FTA agrees to forward Registered Holder's response to Lender within five (5) business days of receipt. If FTA does not receive a response from Registered Holder within thirty (30) calendar days from the date of the request, Registered Holder will be deemed to have submitted a response of nonconsent. FTA is directed to take appropriate action pursuant to Paragraphs 10, 11 or 20 of this Agreement.

(i) Where the Guaranteed Interest is a part of a Pool pursuant to Section 120.700 of the SBA Rules and Regulations as amended, the FTA, as manager of the pool, will, on behalf of Registered Holder of Guaranteed Loan Pool Certificates, agree to servicing actions by Lender that have been approved by SBA that will not affect the rights of the Certificate Holder.

(j) FTA will provide to each SBA field office, in a format approved by SBA, on or before the last business day of each month a report of the execution of Secondary Market Guaranty Agreements (SBA Form 1086) during the previous month.

8. Transferability of Guaranteed Interest

Each Registered Holder maintains under this Agreement the right to assign the Guaranteed Interest. Each Registered Holder of the Guaranteed Interest shall be deemed to have represented that to the best of its knowledge, it has, and so long as it is a Registered Holder will have, no interest in the Borrower, the Note or the collateral hypothecated to the Loan, other than the Guaranteed Interest held under this Agreement. Each Registered Holder represents that it will not service or attempt to service the Loan, or secure or attempt to secure additional collateral from Borrower.

Without the consent of SBA, Lender or FTA, Registered Holder may transfer the ownership of the Guaranteed Interest to a subsequent assignee (other than the Borrower, Lender, or an "Associate" of the Lender as defined in title 13, Code of Federal Regulations, part 120, or anyone standing in the same relationship to the Borrower). The effective date of any transfer of the Guaranteed Interest shall be the date on which such transfer is registered on the books of FTA. Any payment or action by FTA or SBA to the transferor Registered Holder prior to the effective date of the transfer of the Guaranteed Interest shall be final and fully effective. Neither SBA nor FTA shall have any further obligation to the transferee Registered Holder with respect to such payment or action, and any adjustment between the transferor and transferee resulting from such payment or action by SBA or FTA shall be the responsibility and obligation solely of the transferor and transferee.

FTA will make payments on payment date to the person or entity that on the books of FTA is the Registered Holder as of the close of business on the Record Date. The Record Date is the last business day of the prior month. Any other adjustment between transferee and transferor is their responsibility and obligation. At any given time, there shall only be one registered Holder entitled to the benefits of ownership of the Guaranteed Interest. Upon transfer of the Guaranteed Interest, the transferor shall cease to have any right in the Guaranteed Interest or any obligation or commitment under this Agreement.

FTA shall serve as the central registry of Certificate ownership.

9. Certificates Lost, Destroyed, Stolen, Mutilated or Defaced

Procedures for claim resulting from loss, theft, destruction, mutilation or

defacement of a Certificate are found in title 13, Code of Federal Regulations, part 120. Upon written request, FTA will provide such procedures to any claimant.

10. Repurchase of Guaranteed Interest by Lender

(a) FTA will provide to each SBA field office on or before the last business day of the month a list of Loans on which a payment was not received in the previous month.

Within five (5) business days of the receipt of the list, the SBA field office will contact Lender to determine the status of the Loan. A Loan requires action where (i) Lender's records indicate the interest paid-to-date is more than sixty (60) days in arrears or (ii) default by Borrower in payment of any installment of principal and interest has continued uncured for more than sixty (60) days. SBA will, in consultation with the Lender, decide on an appropriate remedial action under Paragraph 2 of this Agreement, or determine whether Lender will be offered the option to purchase the guaranteed portion. This decision will be made by SBA within ten (10) business days of the first act with Lender.

SBA will notify the FTA in writing of the action to be taken within five (5) business days of the decision.

Where the decision is for Lender to purchase the Guaranteed Interest, FTA will request a transcript of account from Lender within five (5) business days of the receipt of the written decision.

Lender agrees to provide the transcript of account within ten (10) business days of receipt of the request from FTA. Lender's failure to comply with the request for transcript may result in a $100 penalty payable to SBA.

FTA and Lender will reconcile the transcript of account within ten (10) business days of the receipt of the transcript by FTA. If Lender and FTA cannot agree on the balance and interest paid-to-date within such ten (10) business days, FTA will immediately send the Lender's and FTA's transcript to the SBA field office for reconciliation. The reconciliation by the SBA field office will be final. SBA will notify Lender and FTA of the reconciliation immediately.

Within ten (10) business days of the reconciliation of the account of a Loan that the Lender is to repurchase, the Lender will transmit and FTA will receive ten (10) business days advance written notice of the date of purchase. Within two (2) business days of receipt of such notification, FTA will notify Registered Holder of the repurchase date and request Registered Holder to forward the Certificate to FTA.

On the date of purchase, Lender, without further notification from FTA, will forward by wire transfer a payment to FTA that includes the outstanding principal balance of the Guaranteed Interest plus interest through and including the date of the wire transfer.

(b) Upon receipt of the purchase amount from Lender (or from SBA pursuant to Paragraph 11 of this Agreement), FTA shall remit to Registered Holder within two (2) business days the outstanding principal balance of the Guaranteed Interest plus interest through the date of purchase. FTA may deduct from such amount a final transfer charge for the final transfer and redemption of the Certificate. The amount of such final transfer charge will not exceed the normal transfer charge for securities.

(c) Upon repurchase of the Guaranteed Interest by Lender, the rights and obligations of Lender, FTA and SBA shall be governed by the 750 Agreement and any continuing provisions of this Agreement.

11. Purchase by SBA

(a) Written notices will be given to Lender and FTA when SBA is to purchase the Guaranteed Interest. Within five (5) business days of such notice, Lender and FTA will provide a transcript and final statement of account of the Guaranteed Interest to SBA. Failure by Lender or FTA to provide the transcript shall result in a $100 penalty payable to SBA by the party failing to comply. SBA will reconcile the transcripts and the reconciliation will be final.

Within ten (10) business days of final reconciliation of the account, SBA will provide ten (10) business days written notice to FTA of the date of purchase. FTA, within two (2) business days of the receipt of the written notice, will notify Registered Holder of the repurchase date and request Registered Holder to forward the Certificate to FTA.

On the purchase date, SBA will arrange to have funds wired to FTA. Upon receipt of the purchase amount from SBA, FTA shall remit to Registered Holder, within two (2) business days, the outstanding principal plus accrued interest to date of purchase.

(b) SBA's payment of accrued interest to the payment date on a fixed interest rate Note shall be at the Note rate less the Lender's servicing fee. On Notes with a variable interest rate, SBA's payment of accrued interest shall be at that rate in effect on the date of the earliest uncured Borrower default, if the loan is in default, or at the rate in effect less the lender's fees if the loan is not in default.

(c) SBA shall not be liable for any amount attributable to any late payment charges pursuant to Paragraph 6 of this Agreement that may be due FTA or Registered Holder.

(d) Upon written demand by SBA, Lender shall immediately repay to SBA the amount by which the amount paid by SBA exceeds the amount of SBA's obligation to Lender under the 750 Agreement, and the amount paid by SBA for any payments by Borrower which were not remitted by Lender to FTA, including accrued interest thereon, plus accrued interest at the Note interest rate computed on the unpaid balance of the Guaranteed Interest from the date of purchase by SBA to date or repayment by Lender.

(e) Upon purchase of the Guaranteed Interest by SBA pursuant to this Paragraph, the rights and obligations of Lender and SBA shall be governed by the 750 Agreement and any continuing provisions of this Agreement. SBA shall be deemed a transferee of the Guaranteed Interest and the final Registered Holder thereof with all the rights and privileges of such Registered Holder under this Agreement.

12. Default by Lender

(a) Pursuant to Paragraph 10(a) of this Agreement, FTA notifies the SBA field office of Loans which are past due. SBA contacts the Lender to determine status of the Loans.

(b) When SBA determines that the Lender has failed for any reason to remit to FTA the payments required pursuant to Paragraph 6 of this Agreement, SBA may purchase the Guaranteed Interest under the provisions of Paragraph 11 of this Agreement.

(c) If SBA purchases the Guaranteed Interest from Registered Holder because of default by Lender, and if Borrower has not been in uncured default on any payment due under the Note for more than sixty (60) calendar days, SBA shall have the option:

(i) to require Lender to purchase the Guaranteed Interest from SBA for an amount equal to the amount paid by SBA to Registered Holder plus accrued interest (at the interest rate provided in the Note) from the date of the SBA purchase to the date of the Lender's repurchase, plus a penalty equal to twenty percent (20%) of the amount paid by SBA, or

(ii) to require Lender to pay SBA a penalty equal to twenty percent (20%) of the amount paid by SBA to Registered Holder.

(d) If on the date SBA purchases the Guaranteed Interest from Registered Holder pursuant to this Paragraph, Borrower shall be in uncured default for more than sixty (60) calendar days, then the provisions of Paragraphs 11(d) and 11(e) of this Agreement will become applicable in lieu of subparagraph (c) of this paragraph.

13. Other Obligations of the Lender

(a) Lender hereby consents to the purchase of the Guaranteed Interest by SBA in accordance with Paragraphs 11 and 12 of this Agreement. Lender shall, within ten business days of a request therefor, and without charge, furnish to SBA and FTA (i) a transcript of account, (ii) a current certified statement of the unpaid principal and interest then owed by Borrower on the Note, and (iii) a statement covering any payments by Borrower not remitted by Lender to FTA.

(b) Upon request by FTA at any time, Lender shall issue at no charge a certified statement of the outstanding principal amount of the Guaranteed Interest and the effective interest rate on the Note as of the date of such certified statement.

(c) Lender agrees that failure to provide the information requested pursuant to Paragraphs 10, 11 and 13 of this Agreement may result in a $100 penalty payable to SBA.

(d) Lender agrees that purchase of the Guaranteed Interest pursuant to Paragraphs 11 or 12 of this Agreement does not release or otherwise modify any of Lender's obligations to SBA arising from the Loan or the 750 Agreement, and that such purchase by SBA does not waive any of SBA's rights against Lender.

(e) Lender agrees that SBA, as final owner of the Guaranteed Interest under this Agreement, in addition to all rights under the 750 Agreement, shall also have the right to offset against Lender all rights inuring to SBA under this Agreement against SBA's obligation to Lender under the 750 Agreement.

(f) Lender agrees to assign, transfer and deliver the Note and related loan documents to SBA upon written demand from SBA after purchase of the Guaranteed Interest pursuant to this Agreement.

14. Default by Fiscal and Transfer Agent

(a) If FTA receives any payment from Lender or SBA and fails to remit to Registered Holder pursuant to Paragraph 7 of this Agreement, Registered Holder shall have the right to make written demand on FTA for any payment not remitted by FTA.

(b) If FTA fails to remit any such payment within ten (10) business days of such demand, Registered Holder shall have the right to make written demand on the SBA Servicing Office identified in this Agreement.

(c) Upon receipt of written demand from Registered Holder, SBA will verify non-payment by FTA. If non-payment by FTA is verified, SBA within thirty (30) days of written demand from Registered Holder will (i) make payment directly to Registered Holder of the amount of the unremitted payment plus interest at the Certificate rate to day of payment by SBA, or (ii) purchase the Guaranteed Interest pursuant to Paragraph 11 of this Agreement.

(d) FTA shall repay SBA within ten (10) business days after receipt of written demand from SBA an amount equal to the unremitted amount plus interest computed at the interest rate on the Certificate on the unpaid balance of the Guaranteed Interest from the date of the failure of FTA to remit to the Registered Holder to the date of FTA's repayment to SBA. Such payment will not affect FTA's liability for a late payment charge under Paragraph 7 of this Agreement.

15. Prepayment or Refinancing by Borrower

(a) A borrower may repay a Loan guaranteed by SBA at any time without penalty. A prepayment subject to this Paragraph is any payment which is greater than twenty percent (20%) of the principal amount outstanding at the time of prepayment.

(b) For loans approved by SBA or on behalf of SBA prior to February 15, 1985, the Lender shall forward any prepayment amount pertaining to the Guaranteed Interest to the FTA within three (3) business days of receipt.

(c) For loans approved by SBA or on behalf of SBA after February 14, 1985, Lender shall transmit written notice to FTA of Borrower's intent to make a partial or total prepayment of principal. Such prepayment can be by refinancing or otherwise. The prepayment date is the date prior to maturity that Lender has established, and on which immediately available funds shall be delivered to FTA. The written notice shall be received by the FTA at least ten (10) business days prior to prepayment date, and it shall be Lender's responsibility to verify receipt of such notice by FTA. Lender's notice to FTA shall include:

(i) The prepayment date;
(ii) The principal amount being prepaid;
(iii) The accrued interest due the FTA as of prepayment date (interest shall accrue through and including the calendar day immediately preceding the prepayment date);
(iv) A certification by Lender that, to the best of its knowledge and belief, the prepayment funds are either Borrower's own funds or funds borrowed by Borrower (whether or not guaranteed by SBA) pursuant to a separate transaction;
(v) A certification by the Lender that the prepayment is in accordance with the terms of this Agreement, the Note and applicable law.

The Certifications are intended to guard against Lender's unilateral repurchase of the Guaranteed Interest from the Registered Holder without prior written consent of SBA.

Lender's failure to provide such timely certification may result in a $100 penalty payable to SBA.

(d) On the prepayment date, Lender will wire the amount due to FTA without notification from FTA. If the total funds are not received by FTA on the prepayment date, interest continues to accrue to the day immediately prior to the date that payment is received by FTA. If funds are not received by FTA on the prepayment date, Lender shall have thirty (30) calendar days from the date originally identified as the prepayment date to forward the prepayment funds. The funds will accrue interest to the day immediately prior to the date payment is received by FTA. If funds are not received within this thirty (30) day period, a new written notice is required in accordance with subparagraph (c) above.

(e) FTA shall upon receipt of notice pursuant to this Paragraph advise the Lender in writing of the outstanding principal amount of the Guaranteed Interest and the accrued interest due FTA as of prepayment date; plus any additional interest and late payment charges pursuant to Paragraphs 6 and 7 of this Agreement.

(f) FTA will remit the prepayment amount to Registered Holder in accordance with Paragraph 7 of this Agreement.

16. Option to Purchase by SBA

Pursuant to the 750 Agreement, SBA shall at any time have the option to purchase from the Registered Holder the outstanding balance of the Guaranteed Interest at the Note rate less the Lender's servicing fee. Failure of the Registered Holder to submit the Certificate to FTA for redemption on the date of prepayment specified by SBA or FTA will not entitle the Registered Holder to accrued interest beyond such date.

17. Separate or Side Agreements

Separate or side agreements (i) between Lender and Registered Holder, (ii) between a Registered Holder and a subsequent transferee of the Guaranteed Interest, (iii) between FTA and Lender, or (iv) between FTA and any Registered Holder shall not in any way obligate SBA to make any payment except as provided in this Agreement, nor shall it modify the nature or extent of SBA's rights or obligations under the terms of this Agreement or of the 750 Agreement. Any such side agreement which has the effect of distorting the information supplied to SBA is prohibited.

18. Indemnity and Force Majeure

Each party to this Agreement (including FTA) for itself and its successors and assigns, agrees to indemnify and hold harmless any other party (including FTA) from and against any costs, liabilities, and related expenses arising from the performance of its duties or otherwise arising under this Agreement; provided that no indemnification shall be provided under this Agreement for action or failure to act which constitutes negligence, breach of authority, or bad faith.

If any party hereto (including FTA) is in doubt as to the applicability of this Agreement to a communication it has received, it may refer the matter to SBA for an opinion as to whether it may take, suffer or omit any action pursuant to such communications.

Under no circumstances shall any party hereto (including FTA) be held liable to any person or entity for special or consequential damages or for attorneys' fees or expenses in connection with its performance under this Agreement.

If any party hereto (including FTA) shall be delayed in its performance hereunder or prevented entirely or in part from completing such performance due to causes or events beyond its control, such delay or non-performance shall be excused and the reasonable time for performance in connection with this Agreement shall be extended to include the period of such delay or non-performance. Causes or events include but are not limited to: (i) Act of God; (ii) postal malfunction, (iii) interruption of power or other utility, transportation, or communication service; (iv) act of civil or military authority; (v) sabotage; (vi) national emergency; (vii) war; (viii) explosion, flood, accident, earthquake or other catastrophe; (ix) fire; (x) strike or other labor problem; (xi) legal action; (xii) present or future law, government order, rule or regulation; or (xiii) shortage of suitable parts, materials, labor or transportation. In disputes between FTA and Lender, or between FTA and Registered Holder, SBA reserves the right to require FTA to take appropriate action as SBA determines, and if legal action is required, SBA will pay reasonable attorney's fees incurred by FTA in taking such action.

19. Fees and Penalties

Lender and Registered Holder shall be responsible for payment of fees and penalties required of them by this Agreement which are in effect on the Settlement Date, and as published from time to time in the **Federal Register**. If any fees or penalties required in this Agreement, (including but not limited to those described in Paragraphs 5, 6, 10, 11, 12, 13, and 15), are not remitted on a timely basis by Lender, FTA and SBA reserve the right to withhold such fees and penalties from the settlement of any future Guaranteed Interest sale or payment on any defaulted guaranteed loan in the Lender's portfolio.

20. Emergency Repurchase Authority by Lender

In certain critical situations in which the Borrower's ability to remain in business is directly dependent on a change in the provisions relating to the installment payments by Borrower, SBA may permit Lender to repurchase the Guaranteed Interest from Registered Holder. Lender must submit to the SBA field office a written request which includes the following:

(i) Current financial statements of the Borrower,

(ii) A written decline from Registered Holder to a specific request for a change in the terms and conditions of the payment, or a written statement from FTA that no response was received from Registered Holder or the Guaranteed Interest is part of a Pool,

(iii) A statement that the proposed change in the terms and conditions of the Loan is solely for the benefit of Borrower, and

(iv) A certification by Lender that it will make the requested change in the terms and conditions if repurchase is approved by SBA.

The SBA Field Office must review the financial statements of Borrower and any other appropriate information and conclude that (i) a situation exists that Borrower's business will probably fail if the change is not approved, and (ii) that it is probable that the business will survive and resume payment if the change is approved. If all conditions are met, the SBA field office may approve the purchase of the Guaranteed Interest by Lender.

Guaranteed Interests purchased pursuant to this Paragraph may not be resold unless the Borrower has made all payments as scheduled in the Note for a period of twelve (12) months.

21. Inconsistent Provisions and Caption Headings

Any inconsistency between this Agreement and the 750 Agreement shall be resolved in favor of this Agreement. Any inconsistency between this Agreement and Title 13, Code of Federal Regulations, shall be resolved in favor of Title 13. The provisions of the Secondary Market Regulations (Title 13, Code of Federal Regulations, Part 120) in effect on the Settlement Date, and as may be amended from time to time in the **Federal Register**, apply to this Agreement unless explicitly stated to be inapplicable. The caption headings for the various Paragraphs herein are for ease of reference only and are not to be deemed part of these Terms and Conditions.

In consideration of the mutual promises herein contained, the parties agree to all the provisions of this Agreement. In Witness Whereof, the parties have executed this multi-page Agreement this _____ day of _____ 19____ in New York State.

_____

(Registered Holder)

SMALL BUSINESS ADMINISTRATION

By: _____

Title: _____

By: Administrator, Small Business Administration

Date: _____

_____

(Lender)

Examined and Accepted by Fiscal and Transfer Agent by:

By: _____

Title: _____

Date: _____

_____

COLSON SERVICES CORPORATION

P.O Box 54

Bowling Green Station

New York, N Y. 10274

NOTICE: THE GUARANTEE OF SBA RELATES TO THE UNPAID PRINCIPAL BALANCE OF THE GUARANTEED INTEREST AND THE INTEREST DUE THEREON ANY PREMIUM PAID BY THE REGISTERED HOLDER FOR THE GUARANTEED INTEREST IS NOT COVERED BY SBA'S GUARANTEE AND IS SUBJECT TO LOSS IN THE EVENT OF PREPAYMENT OR DEFAULT.

This form is required to obtain a benefit.

Patricia Saiki,

Administrator.

[FR Doc. 92-27896 Filed 11-20-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[CO-30-92]

RIN 1545-AQ69

Consolidated Returns—Stock Basis and Excess Loss Accounts, Earnings and Profits, Absorption of Deductions and Losses, Joining and Leaving Consolidated Groups, Worthless Stock Loss; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of additional public hearing on proposed regulations.

SUMMARY: This document contains notice of a second public hearing on proposed amendments to the consolidated return regulations revising the investment adjustment system, including the rules for earnings and profits and excess loss accounts.

DATES: The public hearing will be held on Thursday, March 4, 1993, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Thursday, February 11, 1993.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (CO-30-92), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-622-8452 or 202-622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 1502 of the Internal Revenue Code of 1986 amending the consolidated return investment adjustment system, including the rules for earnings and profits and excess loss accounts. The proposed regulations (CO-30-92) were filed with the **Federal Register** on November 10, 1992, and published on November 12, 1992 (57 FR 53634). A notice of public hearing to be held on Friday, December 18, 1992, was also filed with the **Federal Register** on November 10, 1992, and published on November 12, 1992 (57 FR 53634).

Taxpayers have requested a public hearing at a later date because the proposed regulations are highly technical and propose substantial changes to many important aspects of the consolidated return regulations. In recognition of the short period for submitting comments to be presented at the December 18, 1992, hearing, a second public hearing has been scheduled for Thursday, March 4, 1993.

Because a second hearing has been scheduled, the first hearing will be devoted to general comments and questions by speakers, and policy discussions by the government panel, to facilitate further evaluation of the proposed rules. Although speakers are required to submit outlines of the oral comments/testimony to be presented at the hearing, speakers may comment (or be asked to comment) on additional issues identified by the government panel.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) apply with respect to the March 4, 1993, public hearing. Persons who desire to present oral comments at the March 4, 1993, hearing should submit not later than Thursday, February 11, 1993, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Service Building until 9:45 a.m. An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-28282 Filed 11-20-92; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 143

[FRL-4537-4]

National Primary and Secondary Drinking Water Regulations; Fluoride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Update of Ongoing Review of National Primary and Secondary Drinking Water Regulations for Fluoride.

SUMMARY: In this notice, EPA is providing the public with an update of its ongoing review of the fluoride drinking water standards. EPA regulates fluoride in drinking water under the Safe Drinking Water Act (SDWA). On January 3, 1990, EPA published a notice in the **Federal Register** (55 FR 160) which indicated that EPA had initiated a review of the fluoride drinking water regulations. In addition, EPA requested public comment on the fluoride standards. EPA received more than 1,500 responses relating to the January 3, 1990 notice.

ADDRESSES: No response is requested to this notice. However, interested parties are welcome to comment. Please send all responses to: Fluoride Comment Clerk, Office of Water (WH-550D), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. EPA would appreciate receiving three complete copies of all responses, including attachments. Commenters who wish to receive acknowledgement of their comments should include a self-addressed, stamped envelope. Copies of all material received in response to this notice, the January 3 notice and other relevant material, discussed below, are available for review at EPA, Drinking Water Docket, 401 M Street, SW., Washington, DC 20460. For access to the docket materials, please call (202) 260-3027 between 9 a.m. and 3:30 p.m. for an appointment.

FOR FURTHER INFORMATION CONTACT: Ken Bailey, Health and Ecological Criteria Division, Office of Water (WH-586), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone (202) 260-5535. For general information on any other aspect of drinking water, please call the EPA Safe Drinking Water Hotline at (800) 426-4791, Monday through Friday, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Background.

EPA regulates fluoride in drinking water under the Safe Drinking Water Act (SDWA). In 1985 and 1986, EPA promulgated three separate but related standards for fluoride in drinking water under the SDWA. These standards are listed below:

On November 14, 1985, EPA promulgated a recommended maximum contaminant level for fluoride in drinking water at 4 mg/L (50 FR 47142). (Since the publication of the November 14, 1985 notice, the 1986 Amendments to the Safe Drinking Water Act changed the term "recommended maximum contaminant level" to "maximum contaminant level goal" or MCLG.) MCLGs are nonenforceable health goals which are set at a level at which no known or anticipated adverse health effect would occur and which allow an adequate margin of safety. The 4 mg/L MCLG was designed to protect against crippling skeletal fluorosis.

On April 2, 1986, EPA promulgated a maximum contaminant level (MCL) for fluoride in drinking water at 4 mg/L (51 FR 11396). MCLs are enforceable standards and are set as close to the MCLGs as feasible. "Feasible" means with the use of the best technology, treatment techniques and other means which are available (taking cost into consideration).

On April 2, 1986 EPA promulgated a secondary maximum contaminant level (SMCL) for fluoride in drinking water of 2 mg/L to protect against objectionable dental fluorosis (51 FR 11396). SMCLs are limits for contaminants in drinking water which may affect the aesthetic quality of water and public acceptance. SMCLs are not federally enforceable.

On January 3, 1990, EPA published a notice in the **Federal Register** (55 FR 160) which, besides the previous information, stated that EPA: is reviewing the fluoride drinking water standards and requested public comment.

EPA has received more than 1,500 responses relevant to the January 3, 1990 notice. These responses, as well as data that EPA gathered separately, are available for review at the EPA Drinking Water Docket (see ADDRESSES, above).

Since the publication of the January 3 notice, a number of significant events have occurred:

In 1990, the National Toxicology Program (NTP) completed a two-year chronic rat and mouse fluoride bioassay. (Toxicology and Carcinogenesis Studies of Sodium Fluoride (CAS No. 7681-49-4) in F3444/N Rats and B6C3F, Mice, Drinking Water Studies, U.S. Department of Health and Human Services, Public Health Service, National Institutes of Health). The report of this study concludes that, while there was equivocal evidence of carcinogenic activity of sodium fluoride in male F344/N rats, there was no evidence of carcinogenci activity in female F344/N rats or male or female mice.

In 1990, the Procter and Gamble (P&G) Company published the results of a chronic fluoride bioassay (Two-Year Carcinogenicity Study of Sodium Fluoride in Rats, J.K. Maurer et al., Journal of the National Cancer Institute, pp. 1118-26, Vol. 82, No. 13, July 4, 1990). The authors concluded that sodium fluoride is not carcinogenic in male or female Sprague-Dawley rats.

In 1991, the Department of Health and Human Services (DHHS) published the results of an extensive review of the benefits and risks of fluoride "Review of Fluoride Benefits and Risks, Report of the Ad Hoc Subcommittee on Fluoride of the Committee to Coordinate Environmental Health and Related Programs Public Health Service February 1991, Department of Health and Human Services, Public Health Services." The DHHS reviewed both the NTP and P&G bioassay, as well as a significant body of additional data. Among other points, the DHHS review concluded that: "Taken together, the data available at this time from these two animal studies fail to establish an association between fluoride and cancer" and "optimal fluoridation of drinking water does not pose a detectable cancer risk in humans." In addition, the DHHS review recommended that EPA should review the fluoride drinking water regulations in the light of the DHHS review and several proposed fluoride conferences (see below).

In 1991, two separate fluoride conferences were held in April in response to the DHHS review. These conferences dealt with: the relationship, if any, between fluoride and hip fractures and changing patterns of fluoride exposure.

In 1992, the National Academy of Sciences (NAS) agreed to review fluoride toxicity and exposure data for EPA. EPA has made available to the NAS the public comments it received in response to the January 3, 1990 notice as well as material EPA gathered separately. The NAS review will constitute an intergral part of EPA's review of fluoride. EPA anticipates that the NAS review will be completed in early 1993.

Once EPA has completed its review, EPA will determine whether revisions of the current fluoride drinking standards are or are not warranted. In either case, EPA will detail its conclusions in the **Federal Register** and call for public comment prior to any final decisions.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 92-28386 Filed 11-20-92; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 89-20; Notice 3]

RIN 2127-AC57

Federal Motor Vehicle Safety Standards; Seating Systems; Head Restraints

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for comments.

SUMMARY: This notice seeks comments on recent agency analyses and a proposed research plan concerning seatback performance in rear impacts. Comments received will be evaluated and incorporated, as appropriate, into the planned agency activities.

DATES: Comments must be received by January 22, 1993.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. (Docket Room hours are 9:30 a.m.-4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Dr. William J.J. Liu, Office of Vehicle Safety Standards, NRM-12, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366-4923.

SUPPLEMENTARY INFORMATION:

History

Federal Motor Vehicle Safety Standard No. 207, *Seating Systems,* applicable to passenger cars only, was one of the initial Federal motor vehicle safety standards, effective January 1, 1968 (32 FR 2408, 2415; February 3, 1967). Subsequently, Standard No. 207 was extended to multipurpose passenger vehicles, trucks, and buses effective January 1, 1972 (35 FR 15290; October 1, 1970).

On March 19, 1974, NHTSA published a notice of proposed rulemaking (NPRM) in the **Federal Register** proposing a

major modification of Standard No. 207 (39 FR 10268). The amendment proposed adding a rear impact barrier crash test performance requirement, based on the test conditions specified in Standard No. 301, *Fuel System Integrity,* and to consolidate the head restraint requirements (Standard No. 202, *Head Restraints*) with Standard No. 207. The proposal specified allowable performance of the seating system, limiting the seat back rotation angle after the proposed 30 mph rear impact. No injury criteria were proposed for test dummies.

On March 16, 1978, NHTSA published a notice in the **Federal Register** "Five Year Plan for Motor Vehicle Safety and Fuel Economy Rulemaking and Invitation for Application for Financial Assistance" (43 FR 11100). The notice requested comments on the termination of 13 ongoing rulemaking activities, including the March 19, 1974 proposed Standard No. 207 upgrade and Standard No. 202 consolidation. The reason given for the contemplated termination was that the rulemaking was "low priority." The notice also stated that "(a)ny future upgrade of seats and head restraints will become an integral part of the Occupant Protection Upgrade described in the Exploratory Rulemaking section of this plan."

On April 26, 1979, NHTSA published the "Five Year Plan for Motor Vehicle and Fuel Economy Rulemaking, Calendar Years 1980–1984" which confirmed the termination of the 1974 Standard No. 207 upgrade and Standard No. 202 consolidation (44 FR 24591).

On March 3, 1988, Edward J. Horkey petitioned NHTSA to look into the "slingshot" effect on restrained occupants during rear impacts and to amend the requirement for safety belt retractors in Standard No. 208, *Occupant Crash Protection,* and Standard No. 209, *Seat Belt Assemblies.* The "slingshot" effect is a phenomenon that occurs during a rear impact after an occupant has been forced rearward into the seat back of his or her seat, deforming the seat back. The occupant is then slung forward due to the recovery of elastic energy by the seat back. The petitioner believed that the emergency locking retractor (ELR) on some safety belts unlocked during the occupant's rebounding and therefore could not prevent the "slingshot" effect during an impact. On July 24, 1989, NHTSA notified Mr. Horkey that his petition was granted.

On April 18, 1989, Kenneth J. Saczalski petitioned NHTSA to reexamine the general performance requirements of Standard No. 207. In particular, the petitioner suggested upgrading the seat back requirements for rear impacts. On July 24, 1989, NHTSA notified Mr. Saczalski that his petition was granted.

On October 4, 1989, NHTSA published a Request for Comments on the Horkey and Saczalski petition (54 FR 40896). The agency received 20 comments in response to this notice, 10 from automobile manufacturers, six from vehicle safety consultants, two from university accident research teams, one from a safety belt association, and one from a foreign government submitting a contractor's report. In general, the commenters did not agree on what action, if any, should be taken to improve the safety of seating systems. However, based on comments submitted in response to the notice and agency review and analysis, NHTSA terminated rulemaking on the Horkey petition (55 FR 42031; October 17, 1990). The termination notice stated that NHTSA was unable to establish that amending the requirements for safety belt retractors would provide any significant safety benefits.

On December 8, 1989, Alan Cantor petitioned NHTSA to amend Standard No. 207 to eliminate "ramping" along a collapsed seat back during rear impacts. "Ramping" is movement of an occupant rearward and upward along the seatback during a rear impact. On February 28, 1990, NHTSA notified Mr. Cantor that his petition was granted.

Safety Problem

Concerns currently being expressed by the public and in the technical literature relate primarily to the performance of seating systems in rear impacts. Rear impacts account for the largest number of cases involving seat damage in real-world collisions. In addition, the likelihood of seat damage is greatest in rear impacts. However, the seating system must perform properly in all crash modes. Therefore, recent agency research has considered the performance of seating systems not only in rear impacts, but also in frontal, side, and rollover collisions.

Collisions resulting in rear impact damage account for the lowest number of injuries and fatalities in comparison to other crash modes. Based on data from the Fatal Accident Reporting Systems (FARS), there were 21,440 fatally injured, front-outboard occupants of passenger cars in 1990. Of these fatalities, 676 (3.2%) were in vehicles receiving rear impact damage. Vehicles receiving frontal damage accounted for 11,059 (51.6%) of the fatal occupants, side impact damage accounted for 7,124 (33.2%), and rollover collisions accounted for 4,933 (23.0%). The pattern is similar for seriously, but not fatally injured occupants. Serious injuries are defined as occupants receiving at least one injury rated as 3 or greater using the Abbreviated Injury Scale (AIS). It is estimated that 3.7% of the seriously injured occupants were in rear impacted passenger cars. Frontal damage accounted for 63.7% of the seriously injured occupants, side impact accounted for 25.1%, and rollover crashes accounted for 15.0%.

Another indication of the relative lower safety problem of rear impacts in comparison to other crash modes is the fatality rate. The fatality rate for rear impacts, as measured by fatalities per million registered vehicles is 5.9. The fatality rate for frontal impacts is 81.0, 57.3 for side impacts, and 45.0 for rollover crashes.

However, as discussed later, it is evident that rear impacts cause a disproportionate number of minor injuries. Minor injuries are defined as being at the AIS 1 level. A high percentage of these injuries are to the neck region.

Despite the relatively small numbers of serious injuries, it is desirable to further reduce casualties where practicable. Therefore, the agency is proposing to conduct further research to explore the issues related to this safety problem and possible mitigation concepts.

Agency Research

Since publication of the October 4, 1989 Request for Comments, NHTSA has conducted an analysis of the agency's accident data files, including both a computerized statistical analysis and a manual hard copy investigation of selected cases. NHTSA also reviewed seating system performance data available from Standard No. 207 tests, Standard No. 301, *Fuel System Integrity,* rear impact tests, and New Car Assessment Program (NCAP) front and rear impact tests. The agency's recent defect investigation files were also reviewed. This research is summarized below. A technical report titled "Summary of Safety Issues Related to FMVSS No. 207, Seating Systems" is available in the docket which contains a more detailed description of this research.

National Accident Sampling System

NHTSA analyzed 1988 to 1990 National Accident Sampling System (NASS) data describing seat type and seat performance for occupants of light passenger vehicles that were towed from the scene because of damage received in the crash. Ten percent of

occupied front-outboard passenger seats were deformed (by occupant contract or intrusion) or their hardware (including seat adjusters, folding locks, tracks, and anchors) was damaged in the crash.

While the focus of the petitions is on rear impacts, seat damage was found to occur in all crash modes. Rear impacts accounted for one-third of all the damaged seats. Further, seat damage was more common in rear impacts than in any other type of crash mode. The type of seat damage varied between the different crash modes.

In examining the accident data for information linking performance of the seating system with occupant injury, the agency found that occupants in damaged seats tended to be injured more than occupants in undamaged ones. However, this is largely because seat damage also correlated with high-severity crashes. When the agency attempted to control for crash severity, the results were unclear and did not show a consistent pattern of increased likelihood of injury for occupants of damaged seats.

Hard Copy Studies

To evaluate further how injuries occur and their relation to seat damage in frontal and rear impacts, the agency selectively reviewed hard copies of cases from the NASS 1988–90 files. The agency reviewed cases that satisfied three criteria:

(1) Rear impact cases with a delta-v (change in velocity) of 30–39 mph;

(2) Rear impact cases with a delta v greater than 40 mph or with restrained occupants who experienced AIS 2+ injuries at any delta-v; and

(3) Frontal impact cases with seat damage.

A total of 72 occupied front outboard seats were found within the 49 cases of rear impacts examined. The most frequent observation in these cases was seat deformation from impact of the occupant, and the second most frequent was seat back folding lock failure. Few severe occupant injuries were observed in the rear end crashes studied, and 15 of the 35 occupants with AIS 2 or greater injury levels had injuries produced from frontal components in the passenger compartment. The set of 6 frontal crash cases in which seat deformation was reported indicated no cases in which deformation of the seat from occupant impact contributed to injury. However, when seat forward motion was produced by seat attachment failures, occupant injuries may have been aggravated. In general, the hard copy study did not identify a strong causal relationship between seat crash performance and serious occupant injuries.

Standard No. 207 Compliance Tests

From fiscal year (FY) 1972 to FY 1986, 6 out of 169 (4%) of the tested vehicle models failed the Standard No. 207 compliance tests. No further tests were conducted until FY 1991, when 10 vehicle models were tested, with no failures.

Standard No. 301 Compliance Tests

To study the performance of vehicle seat backs in rear impacts, NHTSA reviewed reports of 54 Standard No. 301 compliance test reports (FY 1987 to FY 1991). Standard No. 301 requires a 4,000 pound flat-face rigid barrier crash at 30 mph, with 50th-percentile test dummies (uninstrumented) restrained at each front outboard designated seating position.

The agency also reviewed 12 Standard No. 301 rear impact test films to observe possible ramping and rebound of the dummies. In the reviewed films, no ramping was observed, and the belt systems appeared to prevent rebound. Based on the review of the Standard No. 301 compliance tests, it appears that, while seat backs frequently deform to a high degree, no apparent ramping or rebound effect is observable.

NCAP Tests

NHTSA reviewed the 55 rear impact tests at 35 mph conducted as part of the NCAP tests on 1979 to 1982 model year vehicles. It was estimated that all the front seatbacks showed permanent rotation of more than 30 degrees and most of those seatbacks touched the rear seat. The legs of all the test dummies at the driver's seating position contacted the steering wheel. NHTSA also reviewed the test films for three of the rear impact tests that sustained seat back rotation of 60 degrees or more. Some ramping of the passenger side dummy was observed in one vehicle. Further, rebound was observed for all the passenger side dummies.

While the focus of a possible upgrade of Standard No. 207 is rear impacts, NHTSA also reviewed the NCAP front impact tests for 1987 to 1991 model year vehicles. In these years, three vehicles were identified which had seating system damage as a result of the 35 mph crash test.

Defect Investigation Files

Between FY 1985 and FY 1992 (August), the agency initiated 55 investigations of possible seating system defects. The number of vehicles affected by these investigations was 17.5 million 1981 to 1992 model year vehicles. The 55 investigations include 13 cases related to seat backs, 11 cases related to seat track or anchorage failure, 2 cases related to seat track and anchorage failure, and 29 other cases. At least 15 cases have indications that the defective seating system may have resulted in loss of vehicle control. Possible occupant injuries related to the investigated cases are 159 nonfatal injuries and 5 fatal injuries.

The 55 investigations resulted in 9 safety recalls, which related to 74 of the nonfatal occupant injuries, affecting 3.2 million vehicles.

Seating System Performance Issues for the Future

Based on the Saczalski and Cantor petitions, the comments submitted in response to the October 4, 1989 notice, and agency research, the agency has determined that there are four categories of performance issues which need to be addressed as part of the consideration of any upgrade of Standard No. 207. Interested readers may wish to examine the Technical Report, which is available in the docket. The Report includes an analysis of those comments to the October 4, 1989 notice which are relevant to these four issues.

The first category is seating system integrity. Seating system integrity refers to the ability of the seat and its anchorage to the vehicle to withstand crash forces without failure. Examples of failure of the seating system would include: Breakage of the seat adjusters, breakage of the folding seatback locks and supports, or separation of the anchorage from the vehicle.

The second category is the energy absorbing capability of a seat. The energy absorbing capability of a seat includes the manner in which the seat and its attachment components absorb energy, and the manner in which the seat and its attachment components release energy.

The third category is compatibility of a seat and its head restraint. The concern in this category is that any change in seat back energy absorbing capability could exacerbate head or neck injuries if the geometry and energy absorbing capability of the head restraint is not also changed.

The fourth category is the safety belt restraint system. A seating system and its safety belt restraint system must complement each other to prevent injury. Several manufacturers are considering integrated seats, i.e., seats which have the safety belt attached to their seat structure to increase the compatibility of these systems.

Most of the concerns raised in the rulemaking petitions, in comments submitted in response to the October 4, 1989 Request for Comments, and in the literature relate to the energy absorbing characteristics of the seating system. Specifically, they concern how to achieve a proper "balance" in stiffness. Concern has been expressed by commenters and in the literature that if a seating system is too stiff, injuries could be increased in a rear impact collision because of the exacerbation of several problems: Occupant rebound off the seat back into the frontal components, ramping of the occupant into the roof of the vehicle, direct contact with the seat back, and phasing problems between the neck/back body regions contacting the head restraint and the seat back. On the other hand, concern has also been expressed that if the seating system appears to bend too far backward when the vehicle is struck in the rear, injuries to front seat occupants could be increased by the exacerbation of several other problems: ramping toward the rear components, contact with the rear seat and/or rear seat occupants, and loss of vehicle control. Further, there could be an increase in injuries for rear seat occupants also.

A table summarizing the relation of each of the three recent petitions for rulemaking to the four identified issues is included in the Technical Report. In addition, the Report contains tables analyzing the relationship of the comments submitted in response to the October 4, 1989 Request for Comments to the four identified issues.

Research Proposal

Based upon the comments submitted to the October 4, 1989 Request for Comments, and agency research since that date, the agency cannot definitely establish that a safety problem exists with seat back performance. Because of the inconclusiveness of many issues concerning seating system performance, and the differing opinions expressed on these issues, NHTSA has determined that further research is necessary. Phase I efforts are described below. The need for and contents of a Phase II research effort will be established after the review of the comments received in response to this notice and after the completion of the Phase I research effort.

NHTSA believes that the further research should be conducted in two general areas. First, there should be a further analysis of real-world crash data by using additional years of NASS data. The agency estimates that this work would take approximately three months, and believes that it should be completed before research is conducted in the remaining area.

Second, an analytical model to simulate seating system performance should be developed and implemented. The NASS data will provide guidance as to the types of crash environments and occupant injuries that should be simulated. By simulating the real-world crash environment and injury outcomes and exploring alternative mitigation concepts such as seating system stiffness, geometry, friction, head restraint location, and other parameters, the details of "optimal" performance criteria could be developed.

For interested parties, a detailed description of the agency's research plan has been submitted to the docket for this rulemaking.

Questions

1. Manufacturers are requested to provide information and data on seating system structural design specifications, test procedures, test results, analytical models, including computer aided design and finite element models, and accident analyses. The information and data provided to the agency will be kept confidential, if proper request for such treatment is made.

2. Manufacturers are requested to provide specifications and performance data on present production seats for cars, vans, and light trucks, especially regarding the seat backs and seat back locks for folding seats. Manufacturers also are requested to explain why the folding seat back locks are generally provided on only one side (the outboard side) of the seat back. Was this based on structural design or a design for convenience?

3. Manufacturers are requested to provide data on seating system weight (system and components) and seat back height (including height range for adjustable head restraint).

4. Please comment on the feasibility of and costs associated with adopting a dynamic test to replace the current Standard No. 207 static tests. One possible test is a 30 mph rear impact test using a rigid moving barrier (similar to the Standard No. 301 rear impact test). What pass/fail criteria could be required for such a dynamic test for seating systems, and why? Should the seat back rotation angle be limited, if so, to what degree from the vertical, and why? Should the agency specify a minimum frictional coefficient for seat back surfaces? Should a restrained dummy be used for the test? What type and size dummy or dummies should be used? Are currently available dummies suitable for rear impact tests? What injury criteria are appropriate for the test dummy? Since the Standard No. 301 test requires test dummies only in the front outboard seating positions, will additional difficulties of test result interpretation or test validity for seating integrity evaluation be introduced if dummies were to be placed in multiple seating positions? Please provide any available test data and potential costs related to a dynamic test.

5. Should Standards No. 202 and 207 be combined and should integral head restraints be required? What percentage of today's production cars have integral head restraints?

6. Is an integrated seating system the best possible design to achieve a proper balance of stiffness and/or occupant crash energy management? What are the advantages and disadvantages of such a system? Is it practical in terms of costs? Please describe research and production information regarding your integrated seats and provide design data, test results, and any available accident data.

7. The current concern for seat damage related injuries has been focused on rear and frontal impacts. Should other impact modes, i.e., side and rollover impacts, also be evaluated? What specific emphasis and goals should be evaluated in each crash mode?

Submission of Comments

Interested persons are invited to submit comments on the agency's analyses, research proposal, and questions. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the

proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Issued on November 18, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-28391 Filed 11-20-92; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 575

[Docket No. 92-65; Notice 1]

RIN 2127-AE61

Consumer Information Regulations; Vehicle Stopping Distance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend the Consumer Information Regulations by rescinding the requirement that motor vehicle manufacturers provide information about vehicle stopping distance. Upon reevaluation of the vehicle stopping distance requirements, NHTSA tentatively concludes that this information is of little safety value to consumers. The adoption of this proposal would eliminate an unnecessary regulatory burden on industry.

DATES: *Comments.* Comments must be received on or before January 7, 1993.

Proposed Effective Date. The proposed amendments would become effective 30 days after publication of a final rule in the **Federal Register.**

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Gordy, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-4797).

SUPPLEMENTARY INFORMATION:

The *Consumer Information Regulations* (49 CFR part 575) are intended to provide prospective purchasers of new motor vehicles with various types of information about their safety performance in specified areas. One type of information is the stopping distance of passenger cars and motorcycles under specified speed, brake, loading, and pavement conditions. (49 CFR 575.101) This stopping distance information is required to be provided in the form of an information sheet available at new automobile dealers. The required information is derived from test data generated to demonstrate compliance with Federal motor vehicle safety standard No. 105, *Hydraulic Brake Systems*, (49 CFR 571.105), for passenger cars and motorcycles. Specifically, the information sheet must display information about the stopping distance that can be met or exceeded from 60 miles per hour on dry pavement with service brakes under lightly loaded and maximum loaded conditions, with emergency brakes, and with inoperative brake boosters. Figure 1 in § 575.101 sets forth the required information.

After reevaluating the usefulness of the stopping distance information, NHTSA has decided to propose rescinding § 575.101 for the reasons set forth below. The agency notes that Chrysler, Ford, and General Motors, which manufacture an estimated 61 percent of the new passenger car fleet sold in the United States in model year 1992, have specified only the maximum allowable stopping distance permissible under Standard No. 105 in recent years. For instance, for lightly loaded passenger cars, they list 194 feet as the representative stopping distance values that can be met or exceeded for every model they manufacture. (Table II in Standard No. 105 lists the maximum permissible stopping distances for various test conditions and speeds.) Thus, the same stopping distance—the maximum allowable distance under the braking standards—is listed for the majority of vehicles, regardless of a vehicle's actual stopping ability. In contrast, the import manufacturers publish numbers that appear to properly distinguish the stopping ability among vehicles. While the domestic manufacturers' reporting practice is permissible, the agency believes that this practice renders the stopping distance information useless for assisting purchasers in comparing vehicles to select ones with superior braking performance.

The agency's dealership audits reveal another shortcoming with the vehicle stopping distance information. The agency has found that little, if any, use is being made of the vehicle stopping distance information. Although most dealerships comply with the requirements and have the material on display, salespeople state that consumers typically do not ask for or otherwise rely on it. The agency believes that consumers do not have an incentive to request the stopping distance brochure because the regulation does not require that dealers provide data on all available makes and models.

After reviewing the vehicle stopping distance information, NHTSA has tentatively decided that the currently supplied information does not meaningfully distinguish the relative stopping ability among passenger cars and motorcycles. The agency further believes that there is no feasible, cost effective method for obtaining stopping distance information that properly compares differences in stopping ability among various vehicles. Costly and extensive testing of large samples of each model would be necessary to determine that two or more models really have different stopping distances. Accordingly, the agency is proposing to rescind § 575.101 based on the belief that the vehicle stopping distance information is of little value to consumers.

The agency believes that a better way to promote the purchase of vehicles with better braking ability is to promote public awareness and interest in antilock braking systems (ABS). An increasing number of vehicles are being equipped with ABS. To promote the purchase of vehicles with ABS, the agency has published an ABS Consumer Information bulletin that describes ABS and indicates which 1992 passenger cars and light trucks offer ABS. NHTSA publications also explain the availability of ABS on the cars that it has crash tested in the new car assessment program (NCAP).

This proposed rule would not have any retroactive effect. Under section 103(d) of the National Traffic and Moto

Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has analyzed this proposal and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The main effect of the proposal would be to relieve manufacturers of passenger cars and motorcycles of an unnecessary regulatory burden associated with providing information that is not meaningful to consumers.

The agency anticipates that the proposed amendment would result in a cost savings because it would no longer be necessary for manufacturers to assemble, print, and distribute the data required under § 575.101. The agency estimates that the costs associated with providing the stopping distance information to prospective customers was approximately $600,000 in 1991. This estimate is derived from General Motors' estimate made in 1977 adjusted for the intervening inflation between 1977 and 1991. Accordingly, the agency believes that rescinding this provision would relieve the automobile industry of this cost, without depriving consumers of any truly meaningful comparative information. The agency requests comments about the anticipated cost savings of this proposal.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the proposed amendments would not have a significant economic impact on a substantial number of small entities. Few vehicle manufacturers would qualify as small entities. Further, the small vehicle manufacturers would not be affected since impact of this rule on the cost of new vehicles would be negligible. For the same reason, small organizations and governmental jurisdictions which purchase new vehicles would not be affected. Accordingly, a regulatory flexibility analysis has not been prepared.

Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule would not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No State laws would be affected.

National Environmental Policy Act

Finally, the agency has considered the environmental implications of this proposed rule in accordance with the National Environmental Policy Act of 1969 and determined that the proposed rule would not significantly affect the human environment.

Public Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the agency proposes to amend, in title 49 of the Code of Federal Regulations at part 575 as follows:

PART 575—[AMENDED]

1. The authority citation for part 575 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1407, 1421, and 1423; delegation of authority at 49 CFR 1.50.

§ 575.101 [Removed and Reserved]

2. § 575.101 would be removed and reserved.

Issued on: November 18, 1992.

Barry Felrice,

Associate Administrdtor for Rulemaking.

[FR Doc. 92-28390 Filed 11-20-92; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 575

Consumer Information Regulations; Uniform Tire Quality Grading Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking submitted by Robert F. Schlegel, Jr., requesting that NHTSA amend the *Uniform Tire Quality Grading Standards.* Specifically, the petitioner suggested extending the requirements of the Uniform Tire Quality Grading Standards (hereinafter UTQG standards or UTQGS), which currently apply only to passenger car tires, to multipurpose passenger vehicle (MPV) and light truck tires; to delete the term "deep tread" or define the term so that it ceases to exclude "all terrain"

tires from UTQGS; to delete the words "other than a tire sold as original equipment on a new vehicle;" to delete tire tread area labels, and to provide that information in owners' manuals. NHTSA has decided to deny the petition because the agency is aware of no consumer information reasons for the requested changes and the petitioner has provided none. Accordingly, there is no reasonable possibility that the requested amendments would be issued at the conclusion of a rulemaking proceeding.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Gordy, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–4797.

SUPPLEMENTARY INFORMATION:

Background

Section 203 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq., "Safety Act"), requires the Secretary of Transportation to prescribe a uniform quality grading system for motor vehicle tires. The purpose of that system is to assist the consumer to make an informed choice in the purchase of motor vehicle tires. NHTSA has implemented that statutory mandate by issuing the UTQG standards in 49 CFR 575.104. Those standards require motor vehicle and tire manufacturers and brand name owners of passenger car tires to provide consumers with information about their tires' relative performance regarding treadwear, traction, and temperature resistance.

Paragraph 575.104(c)(1) provides that the UTQG standards apply to "new pneumatic tires for use on passenger cars." Excluded from the standards, however, are deep tread, winter-type snow tires; space-saver or temporary use spare tires; and certain other tires.

Paragraph 575.104(d)(1)(i)(B)(2) provides that any tire manufactured after April 1, 1982, "other than a tire sold as original equipment on a new vehicle," shall have a label affixed to its tread surface containing, among other information, its treadwear, traction, and temperature resistance grades. The remainder of § 575.104(d) specifies the grading criteria for each of the three categories and the format in which the required information must appear on the required label.

Petition

Suggestion No. 1

Mr. Schlegel's petition contained two suggestions. First, he suggested that the agency amend § 575.104(c)(1) to add after "new pneumatic tires for use on passenger cars" the words "or designated for use on passenger cars, MPV's, light trucks by virtue of, for example, a P or LT prefix to the size designation." He suggested also that all passenger vehicle tires sold to individuals be subjected to the requirements of this section, and finally, that the words "deep tread" be deleted or defined so that they cease to have the effect of excluding "all-terrain" tires from UTQGS.

According to the petitioner, this first suggestion would extend the treadwear, traction, and temperature resistance marking requirements of § 575.104(c)(1) to "tires purchased by the vast majority of owners of privately-owned-vehicles." Mr. Schlegel stated that he supports extending all reasonable safety requirements for passenger cars to light trucks and MPVs.

Suggestion No. 2

Mr. Schlegel's second suggestion would extend "[m]odify 575.104 d.(B)(1)" (sic) to delete the words "other than a tire sold as original equipment on a new vehicle." He would delete the requirement for placing labels on the tread area of tires and require the information currently contained on those labels to be provided instead in the owners' manuals or other documents furnished to the original purchasers of new vehicles. All-terrain tires would not be excluded.

The petitioner stated that the treadwear, traction, and temperature resistance grades should be provided for original equipment tires, contending that without this information consumers would not be able to compare replacement tires with their original equipment tires. In addition, he believed that this information should be contained in the vehicle owner's manual or in an insert in the owner's manual. Finally, the petitioner stated that "all-terrain" tires are mounted on approximately 100,000–200,000 1991–1992 Ford Explorers, classed as MPVs.

Agency Decision

After reviewing Mr. Schlegel's petition, NHTSA has decided to deny it for the reasons set forth below. The agency is not aware of any technical data or rationale supporting any of the requested changes and the petitioner has submitted none.

Suggestion No. 1

Petitioner seeks the extension of paragraph § 575.104(c)(1), currently applicable only to passenger car tires, to MPV and light truck tires. However, the agency notes that UTQGS applies to tires for MPV's and light trucks if the tires can be classified as passenger car tires (i.e., tires required to comply with Federal motor vehicle safety standard No. 109). According to the January 1992, issue of *Modern Tire Dealer*, a trade publication, 80 percent of MPVs and light trucks are equipped with tires classified as passenger car tires.

Further, all-terrain tires, which are frequently mounted on MPVs and light trucks, are subject to the UTQGS if they are not of the deep tread design and if they are classified as passenger car tires. Accordingly, tires mounted on most MPVs and light trucks that are used for passenger transportation and recreation are already subject to the tire grading requirements of the UTQGS. Therefore, the amendments requested by Mr. Schlegel in his first suggestion would, for all practical purposes, have very limited effect.

Petitioner also suggested that the words "deep tread" be deleted from paragraphs § 575.104(c)(1) or defined, claiming that this change would result in ending the exclusion of "all-terrain" tires from the UTQGS. NHTSA does not consider it appropriate to amend the UTQGS so that deep tread tires are no longer excluded from the UTQGS. Although "deep tread" is not defined in the UTQGS, the term refers to a strictly limited class of tires. Their deep tread rubber and tread design renders them unsuitable for year-round, all-purpose use on passenger vehicles. They are special-purpose tires, normally used as snow tires or for off-road use. In contrast, "all-terrain" tires do not have the deep tread design and are suitable for general use on passenger vehicles. Thus, all-terrain tires are not part of the deep tread exclusion and thus are subject to the UTQGS.

Suggestion No. 2

NHTSA believes that Mr. Schlegel, when suggesting that the agency amend "575.104 d.(b)(1)," was in error since there is no provision with that designation. NHTSA assumes that the provision to which he meant to refer was § 575.104(d)(1)(i)(B)(2), which is briefly discussed in the *Background* portion of this notice. Petitioner recommends deletion of the words "other than a tire sold as original equipment on a new vehicle" found in that paragraph. This suggests that petitioner was under the erroneous impression that the UTQGS do not apply to original equipment tires. In fact, paragraph § 575.104(d)(1)(i)(A) requires UTQGS grades to be permanently molded onto the sidewalls of all tires, including original equipment tires.

Paragraph 575.104(d)(1)(iii) requires that the first purchaser of a new vehicle be furnished with a complete explanation of the UTQGS grading systems and be directed to look at the sidewalls of the original equipment tires to learn the specific grades of those tires. Further, NHTSA does not consider it appropriate to delete the requirement for tire tread area labels. The labels serve a legitimate consumer information purpose and the petitioner has failed to submit any rationale for deleting them.

As pointed out in the **Background** portion of this notice, the UTQG standards are intended to provide consumer-oriented information. The petitioner has submitted no supporting data or rationale for his recommendations. Further, as discussed above, since most MPVs and light trucks are already equipped with tires that meet the UTQG standards, no significant consumer information purpose would be served by granting Mr. Schlegel's petition.

In summary, NHTSA believes that the amendments to the UTQGS suggested by Mr. Schlegel are, for the most part, if not entirely, already being practiced in the industry. Eighty percent of MPVs and light trucks are equipped with passenger car tires which must comply with the UTQGS. All-terrain tires, if not of deep tread design, are also subject to the UTQGS. Further, the UTQG standards apply to original equipment passenger car tires. The relevant information regarding those tires is currently provided to consumers. Petitioner has submitted no supporting data or rationale for his suggestions, and NHTSA knows of no such data nor any consumer information need which would justify implementing the changes he suggests. Thus, there is no reasonable probability that this agency would issue the requested amendments at the conclusion of a rulemaking proceeding.

Accordingly, the petition of Robert F. Schlegel, Jr. is denied.

Issued on: November 17, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-28392 Filed 11-20-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

Shrimp Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and a minority report, and request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 6 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico for review by the Secretary of Commerce (Secretary). Written comments on Amendment 6, which includes a regulatory impact review and environmental assessment, are requested from the public.

DATES: Written comments must be received on or before January 15, 1993.

ADDRESSES: Comments should be sent to Michael E. Justen, Southeast Regional Office, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702. Mark envelope "Shrimp Amendment 6." Copies of Amendment 6 and the minority report may be obtained from the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-893-3161.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that council-prepared fishery management plan or amendment be submitted to the Secretary for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary immediately publish a notice that the document is available for public review and comment. The Secretary will consider public comment in determining approvability of the amendment.

Amendment 6 proposes to: (1) Define overfishing for white shrimp; and (2) seasonally modify the boundary of the Tortugas shrimp sanctuary to reduce the area closed to trawl fishing. The Secretary has determined that the definition for overfishing for white shrimp is not consistent with the Magnuson Act and has disapproved that measure. The Secretary will consider public comments in determining the approvability of the proposed seasonal modification of the boundary of the Tortugas shrimp sanctuary.

The definition of overfishing that was disapproved by the Secretary would have subjected white shrimp to the risk of overfishing and is not scientifically justified using currently available data. A recruitment overfishing index level of 600 million parents (age 5 months or greater) was developed at a Council-sponsored workshop composed of state, Federal, and university fishery scientists, recommended by consensus of workshop participants, and accepted by the Council's Scientific and Statistical Committee. Although parent levels less than 600 million were observed during 1960-62, those levels were during years of low fishing effort, implying that environmental conditions relative to shrimp production were different during 1960-62. The workshop report indicates that trawling effort has increased since the 1960s, and that low recruitment has been observed when parent levels decreased below 500 million. Presently, white shrimp are heavily fished throughout their range, and it is the opinion of the workshop participants that, at current levels of effort, risks of recruitment overfishing would be substantial if white shrimp parents were fished to the 1960-62 levels. Therefore, the selection by the Council of an overfishing index level of 300 million parents for white shrimp is not scientifically justified, and is contrary to national standards 1 and 2 of the Magnuson Act.

A minority report submitted by four members of the Council objected to the selection of an overfishing definition that was less than the parent level recommended by the workshop participants. The minority report also objected to the removal of three items from an earlier public hearing draft of Amendment 6—a proposal to require permits for vessels fishing for shrimp in the exclusive economic zone, a proposal previously authorized by the Council that would have required mandatory reporting of catch and landings by selected shrimp fishermen and dealers, and a proposal to require selected shrimp fishing vessels to carry an observer to record bycatch. Although the data that would be generated from these programs is needed, the Council removed the programs from Amendment 6 in recognition that NMFS has insufficient funding to implement them at this time.

Proposed regulations to implement Amendment 6 are scheduled for publication within 15 days.

Dated: November 18, 1992.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-28376 Filed 11-18-92; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 57, No. 226
Monday, November 23, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Termination of the Standard Reinsurance Agreement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of termination of the Standard Reinsurance Agreement, Alternative Reinsurance Agreement, Puerto Rican Reinsurance Agreement, and Agency Sales and Service Contract.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith gives notice that it will terminate the current (1993) Standard Reinsurance Agreement, Alternative Reinsurance Agreement, and Agency Sales and Service Contract, effective as of June 30, 1993, and the current (1993) Puerto Rican Reinsurance Agreement, effective April 30, 1993.

FOR FURTHER INFORMATION CONTACT: Mari Dunleavy, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 254–8314.

SUPPLEMENTARY INFORMATION: The Food, Agriculture, Conservation, and Trade Act of 1990 (The 1990 Farm Act), enacted on November 28, 1990 (Pub. L. 101–624, 104 Stat. 3359) amended the Federal Crop Insurance Act (5 U.S.C. 1501 *et seq.*) to provide that beginning with the 1992 reinsurance year, the Federal Crop Insurance Corporation shall revise its reinsurance agreements to require an assumption of a greater share of risk by reinsured companies.

This is necessary to provide FCIC sufficient time to address issues and changes for the 1994 Standard Reinsurance Agreement, Alternative Reinsurance Agreement, Agency Sales and Service Contract, and Puerto Rican Reinsurance Agreement consistent with the direction provided by the 1990 Farm Act.

Notice

Accordingly, The Federal Crop Insurance Corporation (FCIC) herewith gives notice that it will terminate the current (1993) Standard Reinsurance Agreement, Alternative Reinsurance Agreement, and Agency Sales and Service Contract, effective as of June 30, 1993, and the current (1993) Puerto Rican Reinsurance Agreement, effective April 30, 1993.

Done in Washington, DC on November 16, 1992.

David Bracht,

Associate Manager, Federal Crop Insurance Corporation.

[FR Doc. 92–28316 Filed 11–20–92; 8:45 am]

BILLING CODE 3410–08–M

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for Pacific Northwest Region, Oregon and Washington

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Pacific Northwest Region to publish legal notice of all decisions subject to appeal under 36 CFR part 217. This action is necessary to implement the Secretary of Agriculture's final rule amending the Forest Service administrative appeal procedures, which was signed on December 5, 1990 and was published in the **Federal Register** on February 6, 1991 (56 FR 4914). The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after October 31, 1992. The list of newspapers will remain in effect until April 1993 when another notice will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: James L. Schuler, Regional Appeals Coordinator, Pacific Northwest Region, PO Box 3623, Portland, OR 97208–3623, phone: (503) 326–2322.

SUPPLEMENTARY INFORMATION: On December 5, 1990 the Deputy Secretary of Agriculture signed a final rule amending the administrative appeal procedures 36 CFR part 217 of the Forest Service to require publication of legal notice in a newspaper of general circulation of all decisions subject to appeal. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify: the decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins is the day following publication of the notice.

In addition to the principal newspaper listed for each unit, some forest supervisors and district rangers have listed newspapers providing additional notice of their decisions. The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

Pacific Northwest Regional Office

Pacific Northwest Regional Forester decisions on Oregon National Forests:
The Oregonian, Portland, Oregon
Pacific Northwest Regional Forester decisions on Washington National Forests:
The Seattle Post-Intelligencer, Seattle, Washington
Columbia Gorge National Scenic Area Manager decisions:
The Oregonian, Portland Oregon
Newspapers providing additional notice for Area Manager decisions:
Hood River News, Hood River, Oregon
The Dallas Chronicle, Dallas, Oregon
Columbian, Vancouver, Washington

Oregon National Forests

Deschutes National Forest

Deschutes Forest Supervisors decisions:
The Bulletin, Bend, Oregon
Bend District Ranger decisions:

The Bulletin, Bend, Oregon
Crescent District Ranger decisions:
The Bulletin, Bend, Oregon
Fort Rock District Ranger decisions:
The Bulletin, Bend, Oregon
Sister District Ranger decisions:
Sisters Nugget, Sisters, Oregon
Bend Pine Nursery Managers decisions:
The Bulletin, Bend, Oregon
Redmond Air Center Managers decisions:
The Bulletin, Bend, Oregon

Fremont National Forest

Fremont Forest Supervisor decisions:
Herald and News, Klamath Falls, Oregon
Newspapers providing additional notice for Fremont Forest Supervisor decisions:
Lake County Examiner, Lakeview, Oregon
The Bulletin, Bend, Oregon
Bly District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Lakeview District Ranger decisions:
Lake County Examiner, Lakeview, Oregon
Paisley District Ranger decisions:
Lake County Examiner, Lakeview, Oregon
Silver Lake District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Newspaper providing additional notice of Silver Lake decisions:
The Bulletin, Bend, Oregon

Malheur National Forest

Malheur Forest Supervisor decisions:
Blue Mountain Eagle, John Day, Oregon
Bear Valley District Ranger decisions:
Blue Mountain Eagle, John Day, Oregon
Burns District Ranger decisions:
Burns Times Herald, Burns, Oregon
Long Creek District Ranger decisions:
Blue Mountain Eagle, John Day, Oregon
Prairie City District Ranger decisions:
Blue Mountain Eagle, John Day, Oregon

Mt Hood National Forest

Mt Hood Forest Supervisor decisions:
The Oregonian, Portland, Oregon
Barlow District Ranger decisions:
The Oregonian, Portland, Oregon
Bear Springs District Ranger decisions:
The Oregonian, Portland, Oregon
Clackamas District Ranger decisions:
The Oregonian, Portland, Oregon
Columbia Gorge District Ranger decisions:
The Oregonian, Portland, Oregon
Estacada District Ranger decisions:
The Oregonian, Portland, Oregon
Hood River District Ranger decisions:
The Oregonian, Portland, Oregon
Zigzag District Ranger decisions:
The Oregonian, Portland, Oregon

Ochoco National Forest

Ochoco Forest Supervisor decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Ochoco Forest Supervisor decisions:
Burns Time/Herald, Burns, Oregon
Central Oregonian, Prineville, Oregon
Big Summit District Ranger decisions:
The Bulletin, Bend, Oregon
Crooked River National Grassland District Ranger decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Grassland decisions:
Madras Pioneer, Madras, Oregon
Paulina District Ranger decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Paulina decisions:
Blue Mountain Eagle, John Day, Oregon
Prineville District Ranger decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Prineville decisions:
Central Oregonian, Prineville, Oregon
Snow Mountain District Ranger decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Snow Mountain decisions:
Burns Times/Herald, Burns, Oregon

Rogue River National Forest

Rogue River Forest Supervisor decisions:
Mail Tribune, Medford, Oregon
Applegate District Ranger decisions:
Mail Tribune, Medford, Oregon
Ashland District Ranger decisions:
Mail Tribune, Medford, Oregon
Butte Falls District Ranger decisions:
Mail Tribune, Medford, Oregon
J. Herbert Stone Nursery Managers decisions:
Mail Tribune, Medford, Oregon
Prospect District Ranger decisions:
Mail Tribune, Medford, Oregon

Siskiyou National Forest

Sisikiyou Forest Supervisor decisions:
Grants Pass Courier, Grants Pass, Oregon
Chetco District Ranger decisions:
Curry Coastal Pilot, Brookings, Oregon
Galice District Ranger decisions:
Grants Pass Courier, Grants Pass, Oregon
Gold Beach District Ranger decisions:
Curry County Reporter, Gold Beach, Oregon
Illinois Valley District Ranger decisions:
Grants Pass Courier, Grants Pass, Oregon
Powers District Ranger decisions:
The World, Coos Bay, Oregon
Newspaper providing additional notice of Powers decision:
Curry County Reporter, Gold Beach, Oregon

Siuslaw National Forest

Siuslaw Forest Supervisor decisions:
Corvallis Gazette-Times, Corvallis, Oregon
Alsea District Ranger decisions:
Corvallis Gazette-Times, Corvallis, Oregon
Hebo District Ranger decisions:
Headlight Herald, Tillamook, Oregon
Mapleton District Ranger decisions:
Siuslaw News, Florence, Oregon
Oregon Dunes national Recreation Area Manager decisions:
The World, Coos Bay, Oregon
Waldport District Ranger decisions:
Newport News Times, Newport, Oregon

Umatilla National Forest

Umatilla Forest Supervisor decisions:
East Oregonian, Pendleton, Oregon
Heppner District Ranger decisions:
East Oregonian, Pendleton, Oregon
North Fork John Day District Ranger decisions:
East Oregonian, Pendleton, Oregon
Pomeroy District Ranger decisions:
East Oregonian, Pendleton, Oregon
Walla Walla District Ranger decisions:
East Oregonian, Pendleton, Oregon

Umpqua National Forest

Umpqua Forest Supervisor decisions:
The News-Review, Roseburg, Oregon
Cottage Grove District Ranger decisions:
The News-Review, Roseburg, Oregon
Diamond Lake District Ranger decisions:
The News-Review, Roseburg, Oregon
North Umpqua District Ranger decisions:
The News-Review, Roseburg, Oregon
Tiller District Ranger decisions:
The News-Review, Roseburg, Oregon
Dorena Tree Improvement Center Manager decisions:
The News-Review, Roseburg, Oregon

Wallowa-Whitman National Forest

Wallowa-Whitman Forest Supervisor decisions:
Baker City Herald, Baker City, Oregon
Baker District Ranger decisions:
Baker City Herald, Baker City, Oregon
Eagle Cap District Ranger decisions:
Wallowa County Chieftain, Enterprise, Oregon

Hells Canyon National Recreational Area Ranger decisions
Occurring in Oregon—
Wallowa County Chieftain Enterprise, Oregon
Occurring in Idaho—
Lewiston Morning Tribune, Lewiston, ID
La Grande District Ranger decision
The Observer, La Grande, Oregon
Pine District Ranger decisions
Baker City Herald, Baker City, Oregon
Unity District Ranger decisions
Baker City Herald, Baker City, Oregon
Wallowa Valley District Ranger decisions:
Wallowa County Chieftain, Enterprise, Oregon

Willamette National Forest

Willamette Forest Supervisor decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Willamette Forest Supervisor decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Blue River District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Blue River decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Detroit District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Detroit decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Lowell District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Lowell decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
McKenzie District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of McKenzie decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Oakridge District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Oakridge decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald Albany Oregon
Rigdon District Ranger decisions
Register-Guard, Eugene Oregon
Newspapers providing additional notice of Rigdon decisions
Salem Statesman-Journal Salem, Oregon
Albany Democrat Herald, Albany Oregon
Sweet Home District Ranger decisions
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Sweet Home decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon

Winema National Forest

Winema Forest Supervisor decisions:
Herald and News, Klamath Falls, Oregon
Chemult District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Chiloquin District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Klamath District Ranger decisions:
Herald and News, Klamath Falls, Oregon

Washington National Forests

Colville National Forest

Colville Forest Supervisor decisions:
Statesman-Examiner, Colville, WA
Colville District Ranger decisions:
Statesman-Examiner, Colville, WA
Kettle Falls District Ranger decisions:
Statesman-Examiner, Colville, WA
Newport District Ranger decisions:
Newport Miner, Newport, WA
Republic District Ranger decisions:
Republic News Miner, Republic, WA
Sullivan Lake District Ranger decisions:
Newport Miner, Newport, WA

Gifford Pinchot National Forest

Gifford Pinchot Forest Supervisors decisions:
Columbian, Vancouver, Washington
Mt Saint Helens National Monument Manager decisions:
Columbian, Vancouver, Washington
Mt. Adams District Ranger decisions:
Enterprise, White Salmon, Washington
Packwood District Ranger decisions:
Chronicle, Chehalis, Washington
Randle District Ranger decisions:
Columbian, Vancouver, Washington
Wind River District Ranger decisions:
Columbian, Vancouver, Washington

Mt. Baker-Snoqualmie National Forest

Mt. Baker-Snoqualmie Forest Supervisor decisions:
Seattle Post-Intelligencer, Seattle, Washington
Darrington District Ranger decisions
Everett Herald, Everett Washington
Mt. Baker District Ranger decisions.
Skagit Valley Herald, Mt. Vernon, Washington
North Bend District Ranger decisions
Valley Record, North Bend, Washington
Skykomish District Ranger decisions:
Everett Herald, Everett, Washington
White River District Ranger decisions:
Enumclaw Courier Herald, Enumclaw, Washington

Okanagon National Forest

Okanagon Forest Supervisor decisions:
Omak Chronicle, Omak, Washington
Tonasket District Ranger decisions:
The Gazette-Tribune, Oroville, Washington
Twisp District Ranger decisions:
Methow Valley News, Twisp, Washington
Winthrop District Ranger decisions:
Methow Valley News, Twisp, Washington

Olympic National Forest

Olympic Forest Supervisor decisions:
The Olympian, Olympia, Washington
Newspapers providing additional notice for Olympic Forest Supervisor decisions:
Mason County Journal, Shelton, Washington
Daily World, Aberdeen, Washington
Pennisula Daily News, Port Angeles, Washington
Bremerton Sun, Bremerton, Washington
Hood Canal District Ranger decisions:
Mason County Journal, Shelton, Washington
Quilicene District Ranger decisions:
Pennisula Daily News, Port Angeles, Washington
Newspaper providing additional notice for Quilicene decisions:
Bremerton Sun, Bremerton, Washington
Quinault District Ranger decisions:
The Daily World, Aberdeen, Washington
Soleduck District Ranger decisions:
The Forks Forum, Forks, Washington

Wenatchee National Forest

Wenatchee Forest Supervisor decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice for Wenatchee Forest Supervisor decisions:
The Yakima Herald-Republic, Yakima, Washington
Chelan District Ranger decisions:
The Wenatchee World, Wenatchee,

Washington
Newspaper providing additional notice for Chelan decisions:
The Yakima Herald-Republic, Yakima, Washington
Cle Elum District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice for Cle Elum decisions:
The Yakima Herald-Republic, Yakima, Washington
Entiat District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice for Entiat decisions:
The Yakima Herald-Republic, Yakima, Washington
Lake Wenatchee District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice for Lake Wenatchee decisions:
The Yakima Herald-Republic, Yakima, Washington
Leavenworth District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice for Leavenworth decisions:
The Yakima Herald-Republic, Yakima, Washington
Naches District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice for Naches decisions:
The Yakima Herald-Republic, Yakima, Washington

Dated: November 17, 1992.

Nancy Graybeal,

Acting Regional Forester.

[FR Doc. 92-28324 Filed 11-20-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-601]

Brass Sheet and Strip From Italy; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On September 3, 1992, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on brass sheet and strip from Italy (57 FR 40433). The review covered shipments of one manufacturer/exporter to the United States of the subject merchandise, Europa Metalli-LMI S.p.A. (LMI), during the period from March 1, 1991 through February 29, 1992.

We received comments from the respondent and the petitioners; however, we have not changed the final results from those presented in our preliminary results of review.

EFFECTIVE DATE: November 23, 1992.

FOR FURTHER INFORMATION CONTACT: Cherie Rusnak or Linda L. Pasden, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482-0194.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 1992, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on brass sheet and strip from Italy (57 FR 40433). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act").

Scope of the Review

Imports covered by this review are shipments of brass sheet and strip, other than leaded brass and tin brass sheet and strip, from Italy. The chemical composition of the products under investigation is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical composition are defined by other C.D.A. or U.N.S. series are not covered by these reviews. The physical dimensions of the products covered by these reviews are brass sheet and strip of solid rectangular cross section, over 0.006 inch (0.15 millimeter) but not over 0.188 inch (4.8 millimeters) in finished thickness or gauge, regardless of width, whether coiled, wound on reels (traverse wound), or cut-to-length. These products are currently classified under the Harmonized Tariff System (HTS) item numbers 7409.21.00.50, 7409.21.00.75, 7409.21.00.90, 7409.29.00.50, 7409.29.00.75, and 7409.29.00.90. HTS item numbers are provided for convenience and customs purposes. The written product description remains dispositive.

The review covers one manufacturer/exporter to the United States of the subject merchandise, LMI, and the period March 1, 1991 through February 29, 1992. LMI did not respond to the Department's questionnaire. Therefore, we used best information available for assessment of antidumping duties and cash deposit purposes. Best information available is the highest rate for LMI from any previous administrative review or the original investigation, which is 9.49 percent.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results of the review. We received timely comments from respondent, LMI, and the petitioners, Outokumpu American Brass, Hussey Copper Ltd., The Miller Company, Olin Corporation-Brass Group, Revere Copper Products, Inc., International Association of Machinists and Aerospace Workers, International Union-Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and the United Steelworkers of America (AFL-CIO/CLC).

Comment 1: LMI argues that the Department should have used the margin from the original investigation as best information available (BIA) because this was the only information that was verified. LMI believes that the margin in the first review, which was used as BIA, would have been lower had there been a verification. Therefore, LMI requests that the Department use the lower, verified rate, for the final results of review.

Petitioners agree with the Department's choice of the highest BIA because LMI refused to respond to the Department's questionnaire.

Department's Position: As noted in the preliminary results of review (57 FR 40433), LMI did not respond to the Department's questionnaire. As a result, the Department used best information available (BIA). In determining what rate to use as BIA, the Department follows a two-tiered methodology, whereby the Department may assign lower rates for those respondents who cooperated in these proceedings and rates based on more adverse assumptions for those respondents who did not cooperate (Final Determination of Sales at Less Than Fair Value: Aspheric Opthamoscopy Lenses from Japan), 57 FR 6703, 6704 (February 27, 1992). Accordingly, with the Department's two-tiered BIA methodology outlined in the Final Results of Antidumping Duty Administrative Review: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Germany, et al, 56 FR 31705, (July 11, 1991), when a company refuses to

cooperate with the Department or otherwise significantly impedes these proceedings, we have used as BIA the higher of: (1) The highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the less than fair value investigation (LTFV) or (2) the highest rate found in this or a previous review for the same class or kind of merchandise in the same country of origin. Because LMI refused to cooperate and because no other firm was investigated or covered in this review or previous reviews, we used the highest rate for LMI from a previous review as BIA.

Moreover, LMI's assertion that the first review rate would have been lower had the Department conducted verification is unsupported and without merit.

Final Results of the Review

After analysis of the comments received, we determine that our final results have not changed from the preliminary results. Therefore, the antidumping duty margin remains 9.49 percent for LMI for the period March 1, 1991 through February 29, 1992.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be as outlined above: (2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and, (4) the cash deposit rate for all other manufacturers or exporters will be 4.70 percent. This rate represents the highest rate for any firm (whose shipments to the United States were reviewed) in the most recent administrative review, other than those firms receiving a rate based entirely on best information available. These deposit requirements, when imposed, shall remain in effect until the publication of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: November 17, 1992.

Rolf Th. Lundberg,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-28393 Filed 11-20-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-050]

Racing Plates (Aluminum Horseshoes) From Canada; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from an interested party, the Department of Commerce is conducting an administrative review of the antidumping finding on racing plates (aluminum horseshoes) from Canada. The review covers one manufacturer/exporter of this merchandise to the United States, Equine Forgings Ltd., and the period February 1, 1991, through January 31, 1992. We preliminarily determine the dumping margin to be de minimis. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 23, 1992.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein, Anne D'Alauro, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-0984, (202) 482-1487, or (202) 482-0395, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 31, 1992, the Department of Commerce ("the Department") published a notice of "Opportunity to Request an Administrative Review" (57 FR 3740) of the antidumping finding on racing plates (aluminum horseshoes) from Canada (39 FR 7579; February 27, 1974). On February 18, 1991, Equine Forgings Ltd., a Canadian producer, requested an administrative review of the antidumping finding. We initiated the review, covering the period February 1, 1991, through January 31, 1992, on March 16, 1992 (57 FR 9104). The Department is now conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by the review are shipments of racing plates (horseshoes) that are made of aluminum, may have cleats or caulks, and come in a variety of sizes. They are used on race horses, polo, jumping, hunting and other performing horses, as differentiated from pleasure and work horses. During the review period such merchandise was classifiable under Harmonized Tariff Schedule (HTS) item number 7616.90.00. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter, Equine Forgings Ltd., of Canadian racing plates (aluminum horseshoes) and the period February 1, 1991, through January 31, 1992.

United States Price

In calculating United States prices, the Department used purchase price, as defined in section 772(b) of the Act, since sales to the first unrelated purchaser were made prior to importation and exporter's sales price was not otherwise indicated. Purchase price was based on the packed f.o.b. price to unrelated purchasers in the United States. We made deductions, where appropriate, for inland freight, U.S. duty, brokerage/handling charges, and discounts. We made an addition to U.S. price for Canadian Federal Sales Tax which was not collected by reason of the exportation to the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value, we used home market price, as defined in section 773 of the Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the packed f.o.b. price to unrelated purchasers in Canada, with appropriate deductions for inland

freight, discounts, and rebates. We made a circumstance-of-sale adjustment for the differences in credit and the Canadian Federal Sales Tax.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margin exists:

Manufacturer/ exporter	Period	Margin (percent)
Equine Forgings Ltd	02/01/91-01/31/92	0.04

Parties to the proceeding may request disclosure and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the scheduled date for submission of case briefs. Copies of case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 353.38(e).

The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any case or rebuttal briefs or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions on this exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be that rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of this administrative review. This rate represents the highest rate for any firm with shipments in this administrative review, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.25 to file a certificate regarding the reimbursement of antidumping duties prior to the liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: November 17, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-28397 Filed 11-20-92; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651); 80 Stat. 897; 15 CFR 301, we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 92-141. *Applicant:* Environmental and Occupational Health Sciences Institute, 681 Frelinghuysen Road, P.O. Box 1179, Piscataway, NJ 08855-1179. *Instrument:* Inductively Coupled Plasma Mass Spectrometer, Model VG PlasmaQuad. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* The instrument will be used for studies of toxic and hazardous metals and their interaction with the environment to determine the extent of metal contamination in some ecosystems at ultra-trace levels. *Application Received by Commissioner of Customs:* September 15, 1992.

Docket Number: 92-149. *Applicant:* University of Georgia, Athens, GA 30602. *Instrument:* Gas-Source Isotope-Ratio Mass Spectrometer, Model MAT 252. *Manufacturer:* Finnigan-MAT Corp., Germany. *Intended Use:* The instrument will be used for studies of a variety of geological materials, including rock samples from seafloor hydrothermal systems, ore deposits, and igneous and metamorphic environments. The objectives of the research will include determining the temperature of ore deposition, the variations in fluid composition during ore genesis, and the variations of fluid compositions during igneous or metamorphic processes related to ore genesis. In addition, the instrument will be used for educational purposes in at least three courses: Geology 631: Metallic Ore Deposits, Geology 611: Principles of Geochemistry and Geology 803: Stable Isotope Geochemistry Seminar. *Application Received by Commissioner of Customs:* October 2, 1992.

Docket Number: 92-150. *Applicant:* University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. *Instrument:* UHV Scanning Tunneling Microscope, Model STM-1. *Manufacturer:* Omicron Associates/Omicron Vakuumphysik GmbH, Germany. *Intended Use:* The instrument will be used for studies of refractory metals, gold, copper, and silver. Experiments will consist of ultrahigh vacuum sample and probe tip introduction, ion beam tip milling and subsequent transfer to the STM for nanometer scale feature milling and STM imaging on an atomic scale. *Application Received by Commissioner of Customs:* October 2, 1992.

Docket Number: 92-151. *Applicant:* The University of Connecticut, Department of Linguistics, 341 Mansfield Road, Storrs, CT 06269-1145. *Instrument:* Eye Position Meter, Model 6500. *Manufacturer:* Skalar Medical b.v., The Netherlands. *Intended Use:* The instrument will be used to measure local processing difficulties people experience in reading connected text as it unfolds. Measuring the duration of subjects' fixations on particular portions of text, determines which properties of text are most difficult. *Application Received by*

Commissioner of Customs: October 7, 1992.

Docket Number: 92–152. *Applicant:* U.S. Department of Energy, Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. *Instrument:* Inductively Coupled Plasma Mass Spectrometer, Model VG PlasmaQuad. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* The instrument will be used to characterize the concentration and isotopic distribution of minor and trace elemental constituents in soil and water (environmental samples), ceramics (e.g., high-temperature superconductors), metals (i.e., alloys having unique metallurgical properties), and geologic materials (minerals, ores and hydrological fluids). *Application received by Commissioner of Customs:* October 8, 1992.

Docket Number: 92–153. *Applicant:* Iowa State University of Science and Technology, Purchasing Department, 2nd Floor Physical Plant Building, Ames, IA 50011. *Instrument:* Short Lifetime and Steady State Wide Wavelength Spectrofluorimeter System, Model FL 900. *Manufacturer:* Edinburgh Instruments Ltd., United Kingdom. *Intended Use:* The instrument will be used to study the fluorescence and phosphorescence of organic molecules in a variety of projects related to organic photochemistry. *Application Received by Commissioner of Customs:* October 8, 1992.

Docket Number: 92–154. *Applicant:* Yale University School of Medicine, Section of Neurobiology, 333 Cedar Street, New Haven, CT 06510. *Instrument:* Electron Microscope, Model JEM–1010. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument will be used for research on the neuronal organization and development, using rodent and primate brain tissue. In addition, the instrument will be used to train graduate students and postdoctoral fellows in the training program of the Section of Neurobiology. *Application Received by Commissioner of Customs:* October 9, 1992.

Docket Number: 92–155. *Applicant:* The Johns Hopkins University, School of Medicine, The Johns Hopkins Hospital, room 355, Woods/Wilmer, 600 N. Wolfe Street, Baltimore, MD 21287–9131. *Instrument:* Linear Motion Stimulator. *Manufacturer:* Linear Motors Limited, United Kingdom. *Intended Use:* The instrument will be used for studies of the mechanisms underlying compensation and adaptation for the disorders of inner ear vestibular mechanisms that arise from disease or trauma. In addition, the instrument will be used to train a number of physicians and scientists who will treat and study patients with brain and inner ear disorders. *Application received by Commissioner of Customs:* October 9, 1992.

Docket Number: 92–156. *Applicant:* Kansas State University, Department of Physics, J.R. Macdonald Laboratory, Cardwell Hall, Manhattan, KS 66506–2604. *Instrument:* Electron Cyclotron Resonance Ion Source. *Manufacturer:* Institut für Kernphysik, Germany. *Intended Use:* The instrument will be used to supply one of the two beams needed for the study of ion-ion collisions which provides important information on both the fundamental physics of such collisions and on the relative importance of these collisions in plasmas and ion beams. In addition, the instrument will be used for educational purposes in the courses: Physics 899—Masters Research in Physics and Physics 999—Doctoral Research in Physics. *Application Received by Commissioner of Customs:* October 13, 1992.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–28396 Filed 11–20–92; 8:45 am]

BILLING CODE 3510–DS–M

Notice of Applications for Duty-Free Entry of Scientific Instruments

Purusant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651); 80 Stat. 897; 15 CFR part 301, we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 92–157. *Applicant:* The Ohio State University, Department of Biochemistry, 484 West 12th Avenue, Columbus, OH 43210–1292. *Instrument:* Micro Stopped-flow Spectrophotometer System, Model SF–61AX. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* The instrument will be used for studies of oxidation-reduction processes including electron-transfer mechanisms proteins which utilize vitamin B_2 (riboflavin and its derivatives) as a cofactor, flavin cofactor binding and dissociation kinetics, and reaction kinetics of various flavoenzyme systems with the intent to solve structure-function relationships and reaction mechanisms. *Application Received by Commissioner of Customs:* October 13, 1992.

Docket Number: 92–158. *Applicant:* Institute of Arctic and Alpine Research, University of Colorado, Boulder, Campus Box 450, Boulder, CO 80309–0450. *Instrument:* Isocarb Automatic Carbonate Preparation System, Model PS/004. *Manufacturer:* VG Isotech, United Kingdom. *Intended Use:* The instrument will be used to convert the carbon and part of the oxygen in calcium carbonate to carbon dioxide for measurement of carbon-13 to carbon-12 and oxygen-18 to oxygen-16 ratios, carbon and oxygen isotopic ratios in calcium carbonate are used primarily for deducing paleo-climatic information. *Application Received by Commissioner of Customs:* October 15, 1992.

Docket Number: 92–159. *Applicant:* The Pennsylvania State University, 134 Materials Research Laboratory, University Park, PA 16802. *Instrument:* Thin-Film Sputtering System, Model SPC–350. *Manufacturer:* Anelva Corporation, Japan. *Intended Use:* The instrument will be used for studies of the ferroelectric, piezoelectric, and electrostrictive properties of lead zirconate-titanate (PZT) and lanthanum-doped PZT thin films. The objectives of the investigations are to develop techniques for preparing non-volatile ferroelectric random access memory devices, thin-film transducers, and actuators. In addition, the instrument will be used to demonstrate growth of thin film ferroelectric materials to students in order to facilitate better understanding of these materials and their properties. *Application Received by Commissioner of Customs:* October 20, 1992.

Docket Number: 92–160. *Applicant:* Rutgers University, Institute of Marine and Coastal Sciences, Blake Hall, Room 102, Cook Campus, New Brunswick, NJ 08903. *Instrument:* Inshore Minicorer. *Manufacturer:* Bowers & Connelly Precision Engineers, United Kingdom. *Intended Use:* The instrument will be used in a variety of benthic infaunal research studies that will be conducted at LEO–15, an offshore coastal site in Barnegat Bay; Great Bay and Delaware Bay. *Application Received by Commissioner of Customs:* October 20, 1992.

Docket Number: 92–161. *Applicant:* State University of New York, Research Foundation, Stony Brook, NY 11794. *Instrument:* Moire Interferometry U–V Set and Accessories. *Manufacturer:*

Shanghai Machinery and Equipment Import and Export Corporation, China. *Intended Use:* The instrument will be used for teaching students the technique of moire interferometry for measuring stress/strain in materials and structures. *Application Received by Commissioner of Customs:* October 23, 1992.

Docket Number: 92–162. *Applicant:* University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. *Instrument:* Glow Discharge Mass Spectrometer System, Model CONCEPT. *Manufacturer:* Kratos Analytical Incorporated, United Kingdom. *Intended Use:* The instrument will be used for studies of a variety of solid inorganic materials, both metals (conductors) and non-conducting powders. Typical materials would be plutonium metal, uranium metal, uranium oxides, boron oxides and other materials associated with numerous laboratory programs. The instrument will be used to develop techniques for the impurity analysis of solid materials that will greatly improve and expand existing capabilities. *Application Received by Commissioner of Customs:* October 23, 1992.

Docket Number: 92–163. *Applicant:* West Virginia University, Chemistry Department, Prospect Street, Morgantown, WV 26506–6045. *Instrument:* Micro Stopped-flow Spectrophotometer/Fluorimeter System, Model SF–61AF. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* The instrument will be primarily used following reactions of sulfur compounds and oxyhalogen species. Experiments will include converting sulfur compounds from the harmful dioxides that cause pollution to the relatively harmless sulfates. *Application Received by Commissioner of Customs:* October 23, 1992.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–28394 Filed 11–20–92; 8:45 am]

BILLING CODE 3510–DS–M

Rutgers University, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 92–080. *Applicant:* Rutgers University, New Brunswick, NJ 08903. *Instrument:* Fluorometer, Model Aquatracka MK III. *Manufacturer.* Chelsea Instruments Ltd., United Kingdom. *Intended Use:* See notice at 57 FR 30470, July 9, 1992. *Reasons:* The foreign instrument provides a log scale for sensitivity at low chlorophyll levels and changeable filters (220 to 950 nm range.)

Docket Number: 92–081. *Applicant:* U.S. Department of Agriculture, Ames, IA 50011. *Instrument:* Mass Spectrometer System, Model Delta S. *Manufacturer.* Finnigan, Germany. *Intended Use:* See notice at 57 FR 30471, July 9, 1992. *Reasons:* The foreign instrument provides: Computer-controlled autosampling and operation, (2) guaranteed performance specifications for acetanilide and (3) internal precision of 0.006 per mil for 100 bar μ1 samples of CO_2.

Docket Number: 92–084. *Applicant:* Washington University, St. Louis, MO 63130. *Instrument:* Myograph-Transducers, Electronic Display Box, Model 440A. *Manufacturer.* JP Trading, Denmark. *Intended Use:* See notice at 57 FR 30471, July 9, 1992. *Reasons:* The foreign instrument provides: (1) A force range to 150 mN, (2) controlled temperature to 50°C and (3) positioner range of 10 mm.

Docket Number: 92–088. *Applicant:* U.S. Department of Commerce, Beaufort, NC 28516–9722. *Instrument:* Electronic Digital Fish Measuring Board. *Manufacturer.* Limnoterra Atlantic Inc., Canada. *Intended Use:* See notice at 57 FR 40435, September 3, 1992. *Reasons:* The foreign instrument provides in situ measurements of fish length with simultaneous logging of ancillary data which can be down-loaded to a PC on return from the field.

Docket Number: 92–091. *Applicant:* Virginia Polytechnic Institute and State University, Blacksburg, VA 24061–0308. *Instrument:* Micro Stopped-Flow Spectrophotometer. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* See notice at 57 FR 40435, September 3, 1992. *Reasons:* The foreign instrument provides a completely air free system and independent temperature control of reservoirs and syringes.

Docket Number: 92–098. *Applicant:* Emory University, Atlanta GA 30322. *Instrument:* Mass Spectrometer, Model SX102/SX102/E. *Manufacturer:* Jeol, Japan. *Intended Use:* See notice at 57 FR 40436, September 3, 1992. *Reasons:* The foreign instrument provides: (1) Four-sector tandem design, (2) high-energy collision induced dissociation, (3) resolution to 60 000, (4) scan speed to 0.1 second and (5) mass range to 2400 at 10 kV.

Docket Number: 92–099. *Applicant:* Boston College, Chestnut Hill, MA 02167. *Instrument:* EPR Spectrometer, Model ECS 106. *Manufacturer:* Bruker Instruments Inc., Germany. *Intended Use:* See notice at 57 FR 39394, August 31, 1992. *Reasons:* The foreign instrument provides capability for computer-controlled EPR spectra with a magnetic field range of 0 to 5000 gauss and a radio frequency of 9.0 GHz.

The National Institutes of Health advises in its memoranda dated September 11, 1992 that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–28395 Filed 11–20–92; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Government Owned Inventions Available for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government, as represented by the Department of Commerce, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: Bruce E. Mattson, National Institute of Standards and Technology, Office of Technology Commercialization, Division 222, Building 221, room B256, Gaithersburg,

Maryland 20899; Fax: 301–869–2751. Any request for information should include the NIST Docket No. for the relevant invention(s) as indicated below.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

NIST Docket No. 87–028

Title: "High-Tc Superconducting Unit Having Low Contact Surface Resistivity and Method of Making"

Description: A general method of making a low resistivity contact to a high Tc superconductor by forming a contact pad on the surface of a substantially non-degraded oxide superconductor by depositing a noble metal on the surface. This allows the making of a contact between a superconductor and a normal conducting material, such as an interconnect or electric lead, which minimizes voltage and heat generation at the contact. The patent also describes a method for making high-Tc superconductor contacts with a contact resistivity in the range below 1000 microhms per square centimeter. The method applies to fabrication of both ex-situ and in-situ processed high-Tc contacts. (See also NIST Docket No. 88–040.)

NIST Docket No. 87–029

Title: "High-Tc Superconducting Unit Having Low Contact Surface Resistivity"

Description: This patent includes the method described in NIST Docket No. 87–028 plus annealing the contact unit in oxygen at temperatures up to 700 degrees Celsius. Surface contact resistivities down to about 0.0001 microhms per square centimeter are established using this method. The method is extended to include rare-earth oxide superconductors based on thallium and bismuth, as well as yitrium. (See also NIST Docket No. 88–041.)

NIST Docket No. 88–038

Title: "A System For Detecting Transition and Rare Earth Elements In a Matrix"

Description: A process which provides for the detection of transition elements and/or rare earth elements in an aqueous sample which also contains high concentrations of alkali and alkaline earth metals. The process is particularly effective for determination of transition elements and/or rare earth elements in sea water, industrial waste streams, biological fluids and biological samples. A major advantage of this process is that it permits isolation and concentration of transition elements and/or rare earth elements as a class, followed by chromatographic separation in a continuous process. (See also NIST Docket No. 92–003.)

NIST Docket No. 88–040

Title: "High-Tc Superconducting Unit Having Low Contact Surface Resistivity"

Description: A contact unit formed between a substantially non-degraded surface of a high-Tc superconductor oxide and a noble metal, which enables electric conduction at high density. The patent generally describes such superconducting contacts having contact resistivity less than approximately 1000 microhms per square centimeter. The noble metal can be deposited by techniques that include sputtering or evaporation. Lead attachment to the contact can be accomplished by techniques that include wire bonding or soldering. (See also NIST Docket No. 87–028.)

NIST Docket No. 88–041

Title: "High-Tc Superconductor Contact Unit Having Low Interface Resistivity"

Description: A contact unit formed from a high-Tc superconductor oxide and a noble metal with a specific contact resistivity that includes a range between 0.01 microhms per square centimeter and 0.0001 microhms per square centimeter. This enables the transmission of electric current through the contact at very high current density and low impedance. Also described is a contact unit formed from a high-Tc superconductor oxide and a noble metal, and annealed in oxygen to achieve contact resistivities that include a range between 0.01 microhms per square centimeter and 0.0001 microhms per square centimeter. The oxygen annealing of the contact unit is preferably carried out at temperatures less than 700 degrees Celsius for a time less than 1 hour. (See also NIST Docket No. 87–029.)

NIST Docket No. 91–018

Title: "Process for Forming Alloys in situ in Absence of Liquid-phase Sintering"

Description: A method of preparing oxide-free alloys for use in dental applications. These alloys are expected to provide better biocompatibility than those produced by currently used methods. The oxide-free alloys may be compacted without the addition of a liquid sintering agent and at a temperature below the melting point of the alloy.

NIST Docket No. 92–001

Title: "Intermetallic Thermocouples"

Description: An intermetallic film thermocouple has an amorphous phase and a Seebeck coefficient above 900 micro volts per degree Celsius. The thermocouples can be prepared by vapor-depositing an intermetallic and quenching the resulting intermetallic film. Such intermetallic thermocouples are useful in devices such as microcalorimeters, flow meters and general temperature measurement instruments.

NIST Docket No. 92–003

Title: "Apparatus for Detecting Transition and Rare Earth Elements in a Matrix"

Description: Apparatus for the detection of transition elements, rare earth elements, or both, in aqueous samples, together with alkaline earth metals, alkali metals, or both. A major advantage of this apparatus is that it permits isolation and concentration of transition elements and/or rare earth elements as a class, followed by chromatographic separation in a continuous process. The system is particularly effective for determination of transition elements and/or rare earth elements in sea water, industrial waste streams, biological fluids and biological samples. (See also NIST Docket No. 88–038.)

NIST Docket No. 92–006

Title: "Bi-Flow Expansion Device"

Description: An expansion device for heat pumps or other apparatus where fluid travel is reversed with different required flow rates in each direction. The device changes the mass flow rate of refrigerant through the expansion device when the direction of refrigerant flow is changed.

NIST Docket No. 92–030

Title: "Method and Apparatus for Detecting Guided Leaky Waves in Acoustic Microscopy"

Description: A device and method for non-destructive examination of an interface within a body between two separate elements of the body. From the image created one can determine certain characteristics of the interface such as the quality of the bonding between the two materials. For example, the invention would allow the examination of the interface between a rod of one metal embedded in another metal or between a metal and a ceramic. An acoustic microscope transmits ultrasonic waves at an angle to the sample and the interface. An acoustic receiver is then used to receive the leaky waves

from the interface. These signals are then used to create the image.

NIST Docket No. 92-054

Title: "Liposome Immunoanalysis"

Description: "Liposome Immunoanalysis", relates to the use of liposomes in an immunoanalysis method with a flow injection analysis system. This application describes a method of immunoanalysis combining immobilized immunochemistry with flow injection analysis and employing liposomes as carriers of detectable reagents. The liposomes are modified on their surface with analytical reagents and carry in their internal volume a very large number of fluorescent or electroactive molecules.

Dated: November 18, 1992.

Samuel Kramer,

Acting Director.

[FR Doc. 92-28414 Filed 11-20-92; 8:45 am]

BILLING CODE 3510-13-M

Meeting of Computer System Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app., notice is hereby given that the Computer System Security and Privacy Advisory Board will meet Wednesday, December 9, 1992, and Thursday, December 10, 1992, from 9 a.m. to 5 p.m. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100-235) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to Federal computer systems. All sessions will be open to the public.

DATES: The meeting will be held on December 9 and 10, 1992, from 9 a.m. to 5 p.m.

ADDRESS: The meeting will take place at Marriott Hotel, 620 Perry Parkway, Gaithersburg, MD 20877. Please contact the individual in the "for further information" section to obtain specific conference room assignment. Inquiries regarding the Board meeting should not be directed to the conference facility.

AGENDA:

—Welcome and Meeting Overview
—National Cryptographic Issues
—Board's 1993 Workplan
—NIST Digital Signature Infrastructure
—NIST Updates
—Public Participation
—Close

PUBLIC PARTICIPATION: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the Computer System Security and Privacy Advisory Board, Computer Systems Laboratory, Building 225, room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899. It would be appreciated if fifteen copies of written material could be submitted for distribution to the Board by December 4, 1992. Approximately fifteen seats will be available for the public, including three seats reserved for the media. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn McNulty, Associate Director for Computer Security, Computer Systems Laboratory, National Institute of Standards and Technology, Building 225, room B154, Gaithersburg, MD 20899, telephone: (301) 975-3240.

Dated: November 17, 1992.

Samuel Kramer,

Acting Director.

[FR Doc. 92-28294 Filed 11-20-92; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Marine Mammals; Permits

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Request for Modification of Permit No. 738 (P77#51).

Notice is hereby given that the Southeast Fisheries Science Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149, requested a modification to Permit No. 738, issued on May 16, 1991 (56 FR 14087), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act (16 U.S.C. 1531-1543) and the regulations governing endangered fish and wildlife (50 CFR parts 217-222).

Permit No. 738 currently allows a take by harassment incidental to low-level monitoring studies for bottlenose dolphins and also authorizes aerial surveys for and biopsy sampling of several species of cetaceans.

The Center now seeks authorization to descend from 750 ft to 300-500 ft to enable researchers to distinguish between Balaenopterid whales (excluding *Megaptera novaeangliae*) during aerial surveys to be conducted over the remaining three-and-one-half-year period that the Permit is valid.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this modification request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modification request are available for review by interested persons in the following offices by appointment:

Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Suite 7324, Silver Spring, MD 20901 (301/713-2289); and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702 (813/893-3141).

Dated: November 17, 1992.

Michael F. Tillman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-28367 Filed 11-20-92; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Nepal

November 17, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreement, effected by exchange of notes dated May 30 and June 1, 1986, as amended and extended, between the Governments of the United States and Nepal establishes limits for the period beginning on January 1, 1993 and extending through December 31, 1993.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Information regarding the 1993 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 17, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated May 30 and June 1, 1986, as amended and extended, between the Governments of the United States and Nepal; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1993, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Nepal and exported during the twelve-month period beginning on January 1, 1993 and extending through December 31, 1993, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
340	243,589 dozen.
341	811,962 dozen.
342	150,364 dozen.
347/348	569,378 dozen.
640	122,597 dozen.
641	276,426 dozen.

Imports charged to these category limits for the period January 1, 1992 through December 31, 1992 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and Nepal.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–28334 Filed 11–20–92; 8:45 am]

BILLING CODE 3510–DR–F

The Correlation: Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States for 1993

November 17, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

The Committee for the Implementation of Textile Agreements (CITA) announces that the 1993 Correlation, based on the Harmonized Tariff Schedule of the United States, will be available on or after December 1, 1992.

Copies of the Correlation may be purchased from the U.S. Department of Commerce, Office of Textiles and Apparel, 14th and Constitution Avenue, NW., room H3100, Washington, DC 20230, ATTN: Correlation, at a cost of $30 per copy. Checks or money orders should be made payable to the U.S. Department of Commerce.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–28333 Filed 11–20–92; 8:45 am]

BILLING CODE 3510–DR–F

Request for Public Comments on Bilateral Textile Consultations with the Government of Thailand on Certain Man-Made Fiber Textile Products

November 17, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On October 29, 1992, under the terms of the Bilateral Textile Agreement of September 3, 1991 between the

Governments of the United States and the Government of Thailand, the United States Government requested consultations with the Government of Thailand with respect to man-made fiber twill and sateen fabric in Category 617.

The purpose of this notice is to advise the public that, if no solution is agreed upon between the two governments during the ninety-day consultation period, CITA, pursuant to the agreement, may later establish a specific limit for the entry and withdrawal from warehouse for consumption of textile products in Category 617, produced or manufactured in Thailand and exported during the prorated period beginning on October 29, 1992 and extending through December 31, 1992, at a level of not less than 1,437,838 square meters.

A summary market statement concerning Category 617 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 617, under the agreement with the Government of Thailand, or to comment on domestic production or availability of products included in Category 617, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of Thailand.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Category 617. Should such a solution be reached in consultations with the Government of Thailand, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Thailand

Category 617—Man-Made Fiber Sateen Fabric

October 1992

Import Situation and Conclusion

U.S. imports of man-made fiber twill and sateen fabric, Category 617, from Thailand reached 9,185,667 square meters during the year ending August 1992, thirty-seven times the 249,111 square meters imported a year earlier. In the first eight months of 1992 imports from Thailand were 8,640,190 square meters, forty-two times the 207,723 square meters shipped a year earlier and almost twelve times the total calendar year 1991 Category 617 imports from Thailand. Thailand is the third largest supplier of Category 617, accounting for 16 percent of total Category 617 imports during the first eight months of 1992. Thailand ranked ninth among the major suppliers in 1991, accounting for less than two percent of total Category 617 imports.

The sharp and substantial increase of Category 617 imports from Thailand is causing a real risk of disruption in the U.S. market for man-made fiber twill and sateen fabrics.

U.S. Production, Import Penetration, and Market Share

U.S. production of man-made fiber twill and sateen fabric, Category 617, declined from 501,094,000 square meters in 1988 to 392,728,000 square meters in 1991, a 22 percent decline. Production continued to decline in 1992 falling to 197,614,000 square meters during the first half of 1992, 3 percent below the January-June 1991 level. In contrast, U.S. imports of man-made fiber twill and sateen fabric, Category 617, increased to 39,051,000 square meters in 1991, a 32 percent increase over the 1988 level. Imports surged in 1992 reaching 53,049,000 square meters during the first eight months of 1992, nearly double the level imported during the same period in 1991, and 36 percent above the total calendar year 1991 import level.

The U.S. producers' share of the man-made fiber twill and sateen fabric market declined 3 percentage points from 94 percent in 1988 to 91 percent in 1991. During the first six months of 1992 the U.S. producers' share of the market declined an additional 7 percentage points falling to 84 percent. The ratio of imports to domestic production increased from 6 percent in 1988 to 10 percent in 1991. During the first half of 1992 the ratio of imports to domestic production reached 19 percent, double the 9 percent recorded during the January-June 1991 period.

Duty-Paid Value and U.S. Producers' Price

Approximately 95 percent of Category 617 imports from Thailand during the year ending July 1991 entered under HTSUSA numbers 5513.12.0000—twill weave polyester fabric, 5515.11.0040—sateen or twill weave polyester fabric mixed mainly with viscose rayon staple fibers and 5516.91.0060—sateen and twill weave fabric 85 percent or more of artificial fibers. These fabrics entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable twill and sateen fabrics.

[FR Doc. 92-28335 Filed 11-20-92; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Department of the Army; Office of the Secretary

Environmental Impact Statement (EIS) for the Reuse and Disposal of Fort Devens, MA

AGENCY: U.S. Army, DOD.

ACTION: Notice of intent.

SUMMARY: This Environmental Impact Statement (EIS) will evaluate alternative methods of implementing the Commission's decision to close Fort Devens, including alternative reuses of the disposed property. Development of the potential alternative reuses of the disposed property will be made in conjunction with the local communities and Department of Defense, Office of Economic Adjustment. As required by the National Environmental Policy Act of 1969, the Army will also analyze the "no action" alternative as a baseline for gauging the impacts of the disposal and reuse. Public Law 101-510 (BRAC 91), the Defense Base Closure and Realignment Act of 1990, mandates the closure of Fort Devens, MA. The Army is required by law to analyze the environmental and socioeconomic impacts of the disposal and reuse of real

property at Fort Devens. An EIS will be prepared to analyze and document the impacts of disposal and reuse.

SCOPING: The public will be invited to participate in the scoping process, review of the draft EIS, and a public hearing. The location and time of the scoping meeting, to be scheduled no later than the second quarter, fiscal year 1993, will be announced in the local news media. Release of the draft EIS for public comment and the public meeting will also be announced in the local news media as these dates are established.

ADDRESSES: Written comments may be forwarded to: Ms. Sue Brown, U.S. Army Corps of Engineers, New England Division, CENEDPL–I, 424 Trapelo Road, Waltham, MA 02254–9149.

FOR FURTHER INFORMATION CONTACT: Questions regarding this action may be directed to Ms. Sue Brown, (617) 647–8536.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA (I, L&E).

[FR Doc. 92–28337 Filed 11–20–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.212A]

Fund for the Improvement and Reform of Schools and Teaching (FIRST); Family-School Partnership Program

AGENCY: Department of Education.

ACTION: Extension of deadline date for transmittal of applications.

SUMMARY: On September 21, 1992, the Secretary published in the **Federal Register** (57 FR 43507) a notice that established the closing date for transmittal of applications for the fiscal year 1993 competition under the FIRST: Family-School Partnership Program. The purpose of this notice is to extend the closing date for transmittal of applications.

DATES: The Secretary extends the deadline date for transmittal of applications from December 7, 1992 to December 14, 1992.

FOR APPLICATION OR INFORMATION CONTACT: Diane Hill, U.S. Department of Education, 555 New Jersey Avenue NW., room 522, Washington DC 20208–5524. Telephone: (202) 219–1496. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 4821–4823.

Dated: November 16, 1992.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 92–28287 Filed 11–20–92; 8:45 am]

BILLING CODE 4000–01–M

National Education Goals Panel; Meeting

AGENCY: National Education Goals Panel: Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date and location of a forthcoming meeting of the National Education Goals Panel. This notice also describes the functions of the Panel. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE AND TIME: December 18, 1992 from 1:30 p.m. to 4:30 p.m.

ADDRESSES: Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Laura Lancaster, Public Information Officer, 1850 M Street, NW., suite 270, Washington, DC 20036. Telephone (202) 632–0952.

SUPPLEMENTARY INFORMATION: The National Education Goals Panel was created to monitor and report annually to the President, Governors and Congress on the progress of the nation toward meeting the six National Education Goals adopted by the President and Governors in 1989.

The meeting of the Panel is open to the public. The agenda includes a report and discussion on current efforts to develop new, nationwide education standards and assessments and the relevance of these efforts to state education reform.

Records are kept of all Panel proceedings, and are available for public inspection at the Office of the Goals Panel at 1850 M Street NW., suite 270, Washington, DC 20036, from the hours of 10 a.m. to 5 p.m.

Dated: November 6, 1992.

Lanny Griffith,

Assistant Secretary, Office of Intergovernmental and Interagency Affairs.

[FR Doc. 92–28433 Filed 11–18–92; 8:45 am]

BILLING CODE 4000–01–M [Insert table 3]031

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF92–179–000]

Arroyo Energy, Limited Partnership; Amendment to Filing

November 16, 1992.

On November 10, 1992, Arroyo Energy, Limited Partnership (Applicant), tendered for filing an amendment to its filing in this docket.

The amendment provides additional information pertaining to the ownership structure and technical aspects of its proposed cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before December 4, 1992, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–28314 Filed 11–20–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD92–08950T Oklahoma–26]

Oklahoma; NGPA Amended Notice of Determination by Jurisdictional Agency Designating Tight Formation

November 16, 1992.

Take notice that on November 13, 1992, the Corporation Commission of the State of Oklahoma (Oklahoma) amended its notice of determination that was filed in the above-referenced proceedings on August 31, 1992, pursuant to § 271.703(c)(3) of the Commission's regulations. The August 31, 1992 notice determined that the Upper Atoka Formation underlying a portion of Custer and Washita Counties, Oklahoma qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978.

The amended notice of determination reduces the geographical area recommended for tight formation designation. The amended notice covers only the following areas in Washita County, Texas:

Township 11 North, Range 20 West,
Sections 1–2.

The notice of determination also contains Oklahoma's findings that the referenced portion of the Upper Atoka Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92–28313 Filed 11–20–92; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Research

Energy Research Financial Assistance Program Notice 93–03; Advanced Battery Technology Research and Development

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Basic Energy Sciences (BES) of the Office of Energy Research (ER), U.S. Department of Energy (DOE), hereby announces its interest in receiving grant applications to support a new program for advanced battery technology research and development focused on batteries for the consumer market.

Batteries and battery-like devices are a mainstay of contemporary electronic, information, and transportation industries. The performance of batteries is often the limiting factor that hinders the development of improved portable devices such as cellular telephones, laptop computers, hand held tools, and other consumer products. Stringent environmental requirements impose restrictions on the use of battery materials and components deemed to be harmful not only to the environment but also to human well-being. The objective of the effort is to develop new generic battery technology for a wide range of uses, with particular emphasis on improvements in battery size, weight, life, and recharge cycles for non-automotive uses. For the purpose of this notice, fuel cells and batteries for transportation are excluded from consideration.

DATES: Formal applications submitted in response to this Notice must be received by the Acquisition and Assistance Management Division no later than 4:30 p.m., E.S.T., February 11, 1993, to be accepted for merit review in early 1993 and to permit timely consideration for award in Fiscal Year 1993.

ADDRESSES: Formal applications referencing Program Notice 93–03 should be forwarded to: U.S. Department of Energy, Office of Energy Research, Acquisition and Assistance Management Division, ER–64, Washington, DC 20585, Attn: Program Notice 93–03. The following address must be used when submitting applications by U.S. Postal Service Express, any commercial mail delivery service, or when handcarried by the applicant: U.S. Department of Energy, Acquisition and Assistance Management Division, ER–64, 19901 Germantown Road, Germantown, MD 20874.

FOR FURTHER INFORMATION CONTACT: Dr. Robert S. Marianelli, Office of Basic Energy Sciences, Chemical Sciences Division, ER–14 (GTN), U.S. Department of Energy, Washington, DC 20585, Tel: (301) 903–5804.

SUPPLEMENTARY INFORMATION: The Department's intention for this program is to use a limited amount of money to stimulate as much research and development as possible on new battery technologies. Accordingly, applicants are encouraged to collaborate with industry and to incorporate cost sharing and consortia wherever feasible. The extent of collaboration and cost sharing may be considered when DOE selects applicants for support under this program.

Appropriate topics for research are: Electrode research including investigations of graphitized and composite electrodes for Li^+ cells, metal hydrides, bifunctional air electrodes, fundamental studies of composite electrode structures, failure and degradation of active electrode materials, and thin-film electrodes, electrolytes, and interfaces. Consideration will also be given to secondary aqueous zinc cells and the problems of overcharge/overdischarge, power capability, and cyclability of anodes in lithium cells, oxidative degradation of electrolytes by high voltage cathodes, and highly conductive thin-film ceramic electrodes. Appropriate topics in the area of characterization and methodologies include problems of electrode morphology, zinc corrosion, separator/electrolyte stability and stable microelectrodes. Also of interest are investigations in computational chemistry, modeling, and simulations, including property predictions, phenomenological studies of reactions and interactions at critical interfaces, film formation, phase change effects on electrodes and characterization of crystalline and amorphous materials. Other topics of interest include novel battery separators and the transport properties of electrode and electrolyte materials and surface films. A detailed listing of research needs for battery technology appears in the report of a "Workshop on Advanced Battery Technology Research and Development." Copies are available on request from the U.S. Department of Energy, Chemical Sciences Division, Office of Energy Research, ER–14, Washington, DC 20585. Telephone requests may be made by calling (301) 903–5804.

It is anticipated that $1,700,000 will be available for grant awards during FY 1993, contingent upon availability of appropriated funds. The number of awards and the range of funding will depend upon the number of applications received and selected for award.

Information about the development and submission of applications, eligibility, limitations, evaluation, selection processes, and other policies and procedures may be found in the ER Special Research Grant Application Kit and Guide and in 10 CFR part 605. The application kit and guide is available from the U.S. Department of Energy, Chemical Sciences Division, Office of Energy Research, ER–14, Washington, DC 20585. Telephone requests may be made by calling (301) 903–5804. The Catalog of Federal Domestic Assistance Number for this program is 81.049.

Issued in Washington, DC, on November 17, 1992.

D.D. Mayhew,

Director, Office of Management, Office of Energy Research.

[FR Doc. 92–28375 Filed 11–20–92; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[FE Docket No. 92-123-NG]

San Diego Gas & Electric Co.; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting San Diego Gas & Electric Company authorization to import, at Kingsgate, British Columbia, up to 53,150 Mcf per day of Canadian natural gas over a period of eleven years, beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 17, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-28372 Filed 11-20-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of August 24 Through August 28, 1992

During the week of August 24 through August 28, 1992 the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Albuquerque Journal, 8/27/92, LFA-0228

The Albuquerque Journal filed an Appeal from a determination issued by the Inspector General of the Department of Energy (DOE) in response to its Request for Information submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE determined that the Inspector General had not adequately explained the potential harm to an ongoing investigation as required for the proper invocation of FOIA Exemption 7(A). Accordingly, the Appeal was granted in part and the matter was remanded to the Inspector General to either release the requested documents or to issue a new determination in accordance with the guidance in the Decision and Order.

Concord Oil Company, 8/27/92, LFA-0221

Concord Oil Company (Concord) filed an Appeal from a partial denial by the Albuquerque Field Office of a Request for Information which Concord had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, DOE found that, with the exception of one portion of Concord's request, Albuquerque's search for and release of documents responsive to Concord's request was reasonably calculated to identify responsive documents. However, DOE did find that Albuquerque's search for documents responsive to one portion of Concord's request was inadequate, and remanded that portion of Concord's request to Albuquerque for a further search. DOE also rejected Concord's request to remove a specific DOE employee from the processing of Concord's request.

Energy Research Foundation, 8/24/92, LFA-0227

The Energy Research Foundation (ERF) filed an Appeal from a Freedom of Information Act (FOIA) determination issued by the Department of Energy's (DOE) Savannah River Field Office (Savannah River). In that Appeal, ERF challenged the adequacy of the search. In considering the Appeal, the DOE found that Savannah River's search was adequate under the FOIA and reasonably calculated to uncover responsive documents. The Appeal was therefore denied.

William P. Wells, 8/25/92, LFA-0218

On July 9, 1992, William P. Wells filed an Appeal from a determination issued by the Office of the Executive Secretariat (ES) in response to a request from Mr. Wells submitted under the Freedom of Information Act (FOIA). In that determination, ES released one document as responsive to the request for information that Mr. Wells filed. That document referred to another document, the transcript of the 1094th executive session of the Atomic Energy Commission, purportedly in the possession of ES. It was determined that the transcript is classified. Therefore, the matter was remanded to ES for a review of whether a portion of the transcript can be declassified and released. In addition, the Appeal was remanded to the Freedom of Information and Privacy Branch for a search of files in other field office, specifically Argonne Area Office and Los Alamos Area Office. Therefore, the Appeal was granted.

Refund Applications

Apex Oil Co., Clark Oil & Refining Corp./Charley Monroe, 8/25/92, RF342-238

The DOE issued a Decision and Order denying an Application for Refund filed by Charley Monroe in the Clark Oil & Refining Corporation special refund proceeding. In his application, Mr. Monroe indicated that he was a salaried manager employed by Clark during the refund period. Because Mr. Monroe, as an employee of Clark, never actually purchased and resold the Clark products for which he requests a refund, he could not have experienced injury as a result of Clark's alleged overcharges. Therefore, the DOE determined that his application be denied.

Premier Industrial Corporation, 8/26/92, RF272-75856

The Department of Energy (DOE) issued a Decision and Order denying an Application for Refund submitted by Premier Industrial Corporation (Premier), in the subpart V crude oil overcharge refund proceeding. The DOE found that Premier fell within the class of firms comprised of refiners, resellers, and retailers. Applicants from this class of firms submit specific evidence of injury to receive a refund in the subpart V crude oil overcharge refund proceeding. The DOE denied the Application because Premier did not submit the required specific evidence of injury.

Texaco Inc./Donald Giles 8/27/92, RF321-19147

The Department of Energy (DOE) issued a Decision and Order rescinding in part refund that had been granted to Donald Giles in the Texaco special refund proceeding. In that Decision, the DOE found that the refund was based upon the premise that Mr. Giles operated his service station during the entire period that he claimed in his application. The DOE concluded that another applicant operated this station during a portion of the period of time claimed by Mr. Giles. The DOE therefore rescinded a portion of Mr. Giles' refund.

Texaco Inc./Empire Gas Corporation, 8/26/92, RF321-11703

The DOE issued a Decision and Order concerning an Application for Refund filed by Empire Gas Corporation in the Texaco Inc. special refund proceeding. This applicant sought a refund equal to its full allocable share based on its purchases of propane plus a small-

claims presumption level refund based on its purchases of other petroleum products. In support of its claim of injury above the presumption level, purportedly the firm submitted information purportedly showing the status of its cumulative banked propane costs at the end of the price control period and a statement that it had suffered economic loss as a result of competitive conditions during the consent order period. In reviewing the material presented, we found that Empire's bank information was insufficient, since we could not gauge the extent of the fluctuations in Empire's banks during the course of the refund period. In addition, Empire did not submit data showing its May 15, 1973 margin, or show that market conditions forced it to absorb Texaco's alleged overcharges. The DOE therefore found that Empire had failed to demonstrate that it had suffered an injury beyond the applicable presumption level. Accordingly, Empire was granted a refund under the medium-range presumption of injury.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Bruce Cava et al	RF304-3361	08/24/92
Atlantic Richfield Company/Garfield Car Wash et al	RF304-13171	08/26/92
Atlantic Richfield Company/John's Service Station et al	RF304-13206	08/28/92
Gulf Oil Corp./C.F. Schwartz, Inc. et al	RF300-19200	08/24/92
Gulf Oil Corp./City of Forest Park et al	RF300-20208	08/25/92
Gulf Oil Corp./Garden State Gulf et al	RF300-16311	08/27/92
Gulf Oil Corp./Kansas City Southern RR Co. et al	RF300-18980	08/24/92
Gulf Oil Corp./Kirkland Farms, Inc. et al	RF300-17703	08/24/92
Gulf Oil Corp./Porter's Gulf et al	RF300-18800	08/27/92
Texaco Inc./Lake Street Texaco et al	RF321-15941	08/26/92
Texaco Inc./National Car Rental et al	RF321-6040	08/24/92
Texaco Inc./Roth Trucking, Inc	RF321-19154	08/25/92
Texaco Inc./Supper Glass Corporation et al	RF321-6632	08/25/92
Texaco Inc./Weger Petroleum Distributors et al	RF321-15150	08/26/92

Dismissals

The following submissions were dismissed:

Name	Case No.
Charlie's Arco #2	RF304-13091
Compton Petroleum Corporation	HRO-0230
Compusa	LFA-232
Herman Fisher Richfield Service	RF304-8964
North Main Texaco	RF321-11816
Ponderosa Truck Stop	RF315-7639
Trucker's Inn of Joplin	RF321-2402

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: November 17, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-28374 Filed 11-20-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals During the Week of October 26, Through October 30, 1992

Issuance of Decisions and Orders

During the week of October 26 through October 30, 1992, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Refund Applications

Apex Oil Co., Clark Oil & Refining Corp./Jack's Clark Station et al., 10/29/92, RF342-94 et al.

The DOE issued a Decision and Order granting 18 Applications for Refund filed by purchasers of Clark refined petroleum products in the Apex/Clark special refund proceeding. Each of the applicants estimated the volume of product it purchased from Clark through detailed accounts of its business during the refund period. The DOE determined that the estimates were reasonable and credible when considered within the larger picture of Clark's marketing practices. Accordingly, the DOE granted the applicants refunds totalling $76,947 (comprised of $58,537 in principal and $18,410 in interest).

State Escrow Distribution, 10/26/92, RF302-14

The Office of Hearings and Appeals ordered the DOE's Office of the Controller to distribute $144,000,000 to the State Governments. Most of these funds were derived from a crude oil violation payment made by Texaco Inc. *See Texaco Inc.*, 19 DOE ¶ 85,200, *modified*, 19 DOE ¶ 85,236 (1989). The use of the funds by the States is governed by the Stripper Well Settlement Agreement.

Texaco Inc./Lee Paradise Texaco, Lee's Texaco Station, 10/29/92, RF321-19347, RF321-19348

On December 17, 1991, the DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning Applications for Refund filed by Lee Paradise and his former wife Mary Paradise on behalf of four retail outlets that they operated. That refund was based, in part, upon the applicants' claim that they operated a retail outlet that was located on Longfellow Avenue in Chico, California, from April 1975 to June 1976, and the volume of purchases at that location between those dates. Subsequently, another applicant filed an application for refund for the same retail location claiming that he operated the station from September 1972 through September 1981. The evidence submitted indicates that Lee and Mary Paradise operated the station before March 1973, the beginning of the refund period. Accordingly, the DOE rescinded the portion of the refund that had been granted with respect to this station and directed Lee and Mary Paradise to repay

the amount of the refund together with interest.

Texaco Inc./Paolini Texaco, 10/30/92 RF321-19264

On February 21, 1991, the DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning an Application for Refund filed by Paolini Texaco, a retailer of Texaco products. That refund was based upon the applicant's claim that her husband operated the retail outlet from March 1973 to January 1979, and the volume of purchases at that location between those dates. Subsequently, another applicant filed an application for refund for the same retail location for the period beginning June 1976. That second applicant submitted documentary evidence to support its claim. Accordingly, the DOE found that the first applicant, Betty V. Paolini, should repay, that portion of the refund attributable to purchases made after June 1976.

Texaco Inc./Weeks Texaco #2, 10/27/92, RF321-19319

On January 28, 1992, the DOE issued a Decision and Order granting a refund to John Weeks (Weeks) and Jerry LaPointe (LaPointe) for Texaco purchases they claimed to have made as the owners of Weeks Texaco #2, located at 1499 Belcher Road, Clearwater, Florida. That refund was based upon Weeks and LaPointe's claim that they operated the outlet for the entire consent order period, March 1973 through January 1981. Subsequently, their representative, Wilson, Keller & Associates, informed the DOE that it had discovered evidence which indicated that another individual operated the outlet at 1499 Belcher Road during a portion of the time LaPointe and Weeks claimed to have operated the outlet. After examining the available records, the DOE determined that Weeks and LaPointe had operated the outlet for only a portion of the consent order period. Consequently, LaPointe and Weeks were ordered to repay, with interest, the portion of their refund attributable to the time period in which they did not operate the outlet.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Brunswick School Department	RF272-81098	10/30/92
Cumberland County et al	RF272-85203	10/27/92
Grand Valley Community School	RC272-163	10/30/92
Gulf Oil Corp./Barnicle Oil Company	RF300-16367	10/26/92
Gulf Oil Corp./R.H. Hopkins and Son Gulf et al	RF300-17101	10/27/92
Murphy Oil Corp./Lynn Jenkins et al	RF309-1247	10/29/92
School District of Niagara et al	RF272-85310	10/27/92
Shell Oil Company/Condon Grain Growers et al	RF315-10262	10/29/92
Texaco Inc./Luzianne Coffee Company et al	RF321-16211	10/29/92
Texaco Inc./Max Haviland et al	RF321-15531	10/30/92
Texaco Inc./Raymer Consignee, Inc. et al	RF321-15270	10/29/92
Texaco Inc./Salina School District 16 et al	RF321-15280	10/27/92
Texaco Inc./Stratford Independent Sch Dist et al	RF321-16409	10/26/92

Dismissals

The following submissions were dismissed:

Name	Case No.
Astroline Corp	RF304-134
Belford's Texaco	RF231-15252
Dan Bavuso's Arco	RF304-13314
H. Kulick/James Elder	RF304-13306
Jim's Arco	RF304-7462
Joseph T. Stamp	RF304-13337
Joseph Tomaseski	RF304-13298
Nick's Arco	RF304-6567
Paul's Texaco	RF321-1777
Pelonero's Texaco	RF321-2946
Perkin's Tire & Service Center	RF321-1779
Peterman's South Texaco	RF321-2145
Renzi Oil Company	RF321-18880
States Steamship Co	RF321-16104
Steve's Arco	RF304-12817
West Harrison Community Schools.	RF272-90819

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: November 17, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-28373 Filed 11-20-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4536-8]

Clean Air Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On October 5, 1992, EPA published a notice (57 FR 45791), identifying nine specific contractors that may have access to confidential business information (CBI) materials on a need-to-know basis. EPA did not provide specific information as to the CBI materials which could be accessed by the contractors in the original notice. This notice provides such information regarding one of these contractors. In a separate notice the additional information will be provided that is explicitly applicable to each of the other contractors.

DATES: The transfer of data submitted and claimed as confidential to EPA under an extension to the contract 68-W8-0036 will occur no sooner than November 30, 1992.

FOR FURTHER INFORMATION CONTACT: Clifford D. Tyree, Project Manager/ Freedom of Information Act Officer, Certification Division, Ann Arbor, MI, 48105, telephone (313) 668-4310.

SUPPLEMENTARY INFORMATION: Title II of the Clean Air Act (CAA) requires that manufacturers of light-duty vehicles, light-duty truck, heavy-duty engines, and motorcycles meet applicable exhaust emission standards. Section 208 of the CAA requires these manufacturers to provide "* * * such information as the Administrator may reasonably require * * *" Because this information is collected under section 208 of the Act, EPA possesses the authority to disclose said information to its authorized representatives. EPA provides a recommended application format identifying the information needed to support their assertions their

vehicles/engines comply with the applicable emission standards. Each manufacturer is required to submit an application for certification for a certificate of conformity to the applicable regulations. These data include vehicle descriptions, engine/vehicle descriptions, emission control system descriptions and calibrations, and sales information. EPA has encouraged the manufacturers to submit as much of this information as possible in an electronic format, and a majority of manufacturers do so. To accomplish this, each manufacturer has obtained an account at the contract computer center and provides EPA with access to their account containing this information. EPA accesses this information and compiles it in the appropriate files for use in support of each manufacturer's application for certification.

Under contract No. 68-W8-0039, Wayne State University provides computer timesharing services for the Certification Division to access the data submitted by the manufacturers to support their respective exhaust emission and fuel economy programs. This contractor's responsibility is to maintain the integrity of the transfer of these data. In order to perform this function the contractor may, on a need-to-know basis, have access to these data. The contractor's address is: Wayne State University, Computing and Information Technology, 5925 Woodward Avenue, Detroit, MI 48202.

EPA had previously provided Wayne State University with access to these materials. EPA is now taking those steps necessary to comply with the provisions of 40 CFR 2.301(h)(2). The contract with Wayne State University's Computing Center will prohibit the use of the information for any purpose not specified in the contract; will prohibit the disclosure, in any form, to a third party; and will require that each official and employee of the contractor sign an agreement to protect the information from unauthorized release or access. In addition, Wayne State University's Computer Center will be required to submit, for EPA approval, a security plan under which all information residing and entering their computer system will be secured and protected against unauthorized release or access.

In accordance with 40 CFR 2.301(h)(2) EPA has determined that Wayne State University's Computing and Information Technology group requires access, on a need-to-know basis, to CBI materials submitted to EPA under title II, section 208, of the CAA.

Dated: November 15, 1992.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92-28387 Filed 11-23-92; 8:45 am]

BILLING CODE 6560-50-M

[OPPTS-62123; FRL-4176-6]

Availability of Applications for 1993 Award Cycle of the Asbestos School Hazard Abatement Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of applications for the 1993 award cycle of the Asbestos School Hazard Abatement Act of 1990 program. The program was established to offer financial assistance to financially needy schools so that they may abate asbestos materials which pose a serious health hazard to building occupants. Assistance is offered in the form of loans and/or grants and is available for public and non-profit private elementary and secondary schools.

DATES: All completed applications must be submitted by Local Education Agencies (LEAs) to State ASHAA Designees by January 22, 1993, and by the States to EPA by February 1, 1993, to be considered for FY 93 funding awards.

ADDRESSES: For obtaining an application package a written request should be sent to: EPA ASHAA Coordination Center, c/o ATLIS Federal Services, Inc., 6011 Executive Blvd., Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: John Melone, Director, Chemical Management Division, Environmental Protection Agency, Rm. E-313, 401 M St., SW., Washington, DC 20460. Toll free: 800-835-6700, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: In 1990, Congress reauthorized the Asbestos School Hazard Abatement Act (ASHAA) to offer financial assistance to financially needy schools so that they may abate asbestos materials which pose a serious health hazard to building occupants. Assistance is offered in the form of loans and/or grants and is available for public and non-profit private elementary and secondary schools. Since 1985, over $346 million has been offered to Local Education Agencies (LEAs) for 2,933 abatement projects.

In November, congressional appropriation allowed up to $77 million for the 1993 asbestos in schools program. Congress intended that Federal funds under the ASHAA loan and grant program be directed to school districts which have the most serious asbestos hazards and the greatest financial need. To apply for these funds a school district must submit a 1993 ASHAA application in accordance with the following schedule: (1) LEAs must submit applications to State ASHAA Designees by January 22, 1993 and (2) States must submit applications to EPA by February 1, 1993.

An application package for the 1993 award cycle may be obtained through the ASHAA Coordination Center by calling the toll free line: 1-800-462-6706 or by making a written request to the EPA ASHAA Coordination Center at the address listed under the ADDRESSES unit. The package includes a policy statement explaining the selection process, an application containing detailed instructions for applying for funds, and the addresses of the State ASHAA Designees to whom LEAs should submit their applications. EPA will announce 1993 award recipients before the end of April 1993.

Dated: November 16, 1992.

Joseph A. Cara,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 92-28401 Filed 11-20-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPT-59954; FRL-4176-4]

Certain Chemicals; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of one such PMN and provides a summary of each.

DATES: Close of review periods:

Y 93-9, November 16, 1992.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC, 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 93-9

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyd resin.

Use/Production. (S) Intermediate for coating resins. Prod. range: Confidential.

Dated: November 13, 1992.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-28404 Filed 11-20-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: The submission is summarized as follows:

Type of Review: Extension of expiration date without any change in substance or method of collection.

Title: Financial Report.

Form Number: FDIC 6200/06.

OMB Number: 3064-0006.

Frequency of Response: On occasion.

Respondents: All prospective directors or officers of proposed or operating depository institutions applying for Federal deposit insurance as either a state nonmember bank or a state-chartered savings association; each individual proposing to acquire control of an insured state nonmember bank; and each individual being proposed as a director or being considered for employment as senior executive officer of certain insured state nonmember banks.

Number of Respondents: 3,010.

Number of Responses Per Respondent: 1.

Total Annual Responses: 3,010.

Average Number of Hours Per Response: 2.

Total Annual Burden Hours: 6,020.

OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Management and Budget, Paperwork Reduction Project 3064-0097, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898-3907, Office of the Executive Secretary, room F-400, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before January 22, 1993.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB approval to extend the use of form FDIC 6200/06, which is used by each individual director or officer of a proposed or operating depository institution applying for Federal deposit insurance or by a person proposing to acquire control of an insured state nonmember bank; and by each proposed new director or proposed new senior executive officers of a state nonmember bank which (a) became insured or has undergone a change in control within the preceding two years or (b) is not in compliance with the applicable capital requirements or is otherwise in a troubled condition. The FDIC is required by statute to evaluate the general character and financial condition of certain individuals who will be involved in the management or control of depository institutions.

Dated: November 18, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-28398 Filed 11-20-92; 8:45 am]

BILLING CODE 6714-01-M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: The submission is summarized as follows:

Type of Review: Revision of the currently approved collection.

Title: Notification of Addition of Directors and Senior Executive Officers of Certain Depository Institutions.

Form Number: FDIC 6810/01.

OMB Number: 3064-0097.

Frequency of Response: On occasion.

Respondents: Any insured State nonmember bank who is required to notify the FDIC of the proposed addition of any individual to the board of directors or the employment of any individual as a senior executive officer of such institution.

Number of Respondents: 2,200.

Number of Responses Per Respondent: 1.

Total Annual Responses: 2,200.

Average Number of Hours Per Response: One half hour.

Total Annual Burden Hours: 1,100.

OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Management and Budget, Paperwork Reduction Project 3064-0097, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898-3907, Office of the Executive Secretary, room F-400, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before January 22, 1993.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB approval to revise form FDIC 6810/01, which is used by state nonmember banks that are subject to the notification requirements of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 to notify the FDIC of the proposed addition of any individual to the board of directors or the employment of any individual as a senior executive officer of such institution at least 30 days before such addition or employment becomes effective, if the insured depository institution (a) became insured or has undergone a change in control within the past two years or (b) is not in compliance with the applicable capital requirements or is otherwise in a troubled condition. The information is used by the FDIC to make an evaluation of the general character of individuals who will be involved in the management

of depository institutions, as required by statute.

Dated: November 18, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-28399 Filed 11-20-92; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection under OMB Review

Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for approval for the continuation of the national reporting program on child maltreatment. This data collection titled "Reporting Requirements for the Summary Data Component of the National Child Abuse and Neglect Data System" (OMB #0980-0229) expired on September 30, 1992.

ADDRESSES: Copies of the information collection request may be obtained from Steve Smith, Office of Information Systems Management, ACF, by calling (202) 401-9235.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Kristina Emanuels, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395-7316.

Information on Document

Title: Reporting Requirements for the Summary Data Component of the National Child Abuse and Neglect Data System.

OMB No.: 0980-0229.

Description: The National Child Abuse and Neglect Data System (NCANDS), was designed in response to the requirements of the Child Abuse and Prevention, Adoption and Family Services Act of 1988 (Pub. L. 100-294) and the Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992 (Pub. L. 102-295). This data collection system is expected to coordinate existing State child abuse and neglect reports which shall include: (a) Standardized data on false, unfounded, or unsubstantiated reports; and (b) information on the number of deaths due to child abuse and neglect. The NCANDS consists of two components, the Summary Data Component (SDC) and the Detailed Case Data Component (DCDC). A pilot test of the second phase (or DCDC) of the study is currently underway in eight States. Pending the results of the pilot test, a separate request for OMB clearance will be submitted. Both systems are based upon consistent and standardized definitions and terminology among the States and thereby provide coherent reporting for the national system.

The first phase, the Summary Data Component (SDC) for which OMB approval is being sought, was conditionally approved in 1991 by OMB. The SDC, which was designed in consultation with States, asks them to submit aggregate data in the following information categories: Reporting, investigation, victims and perpetrators. Data are drawn from existing State reports of abuse and neglect. The 15 data elements collected under the SDC include statistics on the number of reports for investigation, the disposition of investigations and the characteristics of victims and perpetrators. These data elements were selected based on a consensus of the proposed respondents regarding the importance of the item, the current or planned capability of the States to collect the information from their own jurisdiction and the willingness of States to provide the information in the form requested.

Annual Number of Respondents: 56.

Annual Frequency: 1.

Average Burden Hours Per Response: 40.

Total Burden Hours: 2,240.

Dated: November 6, 1992.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 92-28305 Filed 11-20-92; 8:45 am]

BILLING CODE 4130-01-M

Food and Drug Administration

Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing an amendment to the agenda of a meeting of the Anesthetic and Life Support Drugs Advisory Committee which is scheduled for November 23 and 24, 1992. This meeting was announced in the **Federal Register** of October 21, 1992 (57 FR 48030). The change is being made to add an additional item for discussion. There are no other changes. This amendment will be announced at the beginning of the open portion of the meeting.

FOR FURTHER INFORMATION CONTACT: Isaac F. Roubein, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3741.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 21, 1992, FDA announced that a meeting of the Anesthetic and Life Support Drugs Advisory Committee would be held on November 23 and 24, 1992. On page 48030 at 48032, column 1, the closed commitee deliberations portion of the agenda is amended as follows:

Closed committee deliberations. On November 23 and 24, 1992, the committee will review trade secret and/or confidential commercial information relevant to NDA 19-627 propofol (Diprivan®, ICI Pharmaceuticals), NDA 19-050 sufentanil citrate (Sufenta®, Janssen Pharmaceutical Research Foundation), NDA 18-776, vecuronium bromide injection (Nocuron®, Organon), and the following succinylcholine chloride injection NDA's 8-453 (Anectine®, Burroughs-Wellcome), 8-845 (Quelicin®, Abbott Laboratories), 8-847 (Sucostrin®, Bristol-Myers Squibb), and 80-997 (succinylcholine chloride injection, Organon). This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Dated: November 18, 1992.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 92-28451 Filed 11-19-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92N-0135]

Hoffmann-La Roche Inc., et al.; Withdrawal of Approval of 40 New Drug Applications; Amendment; Revocation of that Portion of the Notice Withdrawing Approval of Fisons Corp. Application; Reinstatement of Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is reinstating approval of a new drug application (NDA) (NDA 17-807, Proferdex (iron dextran injection, USP)) held by Fisons Pharmaceuticals (Fisons), Fisons Corp., Jefferson Rd., P.O. Box 1710, Rochester, NY 14603. The approval of the application was withdrawn in response to the firm's written request (see the

Federal Register of March 20, 1992, 57 FR 9729, effective April 20, 1992). Before the effective date of the withdrawal, Fisons by written request asked that the NDA be reinstated. This document revokes the notice withdrawing approval with respect to NDA 17-807 and reinstates the approval of this NDA.

EFFECTIVE DATE: November 23, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy Maizel, Center for Drug Evaluation and Research (HFD-53), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4320.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 20, 1992 (57 FR 9729), FDA published a notice that the agency was withdrawing approval of 40 NDA's based on the written voluntary requests of the firms. The firms had indicated that the drug products were no longer being marketed under the NDA's. The withdrawals were effective April 20, 1992.

Fisons originally requested voluntary withdrawal of NDA 17-807 for Proferdex (iron dextran injection, USP) by written request dated July 22, 1991, without prejudice to refiling.

After the March 20, 1992, Federal Register notice was published, Fisons notified FDA by letter dated April 16, 1992, that the request to withdraw approval should be considered rescinded. Fisons stated its belief that, because of a number of commercial factors affecting the supply of iron dextran USP to U.S. patients, this NDA should remain open.

FDA has reviewed Fison's request and has determined that the March 20, 1992, withdrawal notice should be revoked with respect to NDA 17-807.

Therefore, under section 505(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(f)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), the March 20, 1992, notice of withdrawal with respect to NDA 17-807 is hereby revoked. The approval of NDA 17-807, and all amendments and supplements thereto, is hereby reinstated.

Dated: October 28, 1992.

Donald B. Burlington,

Acting Director, Center for Drug Evaluation and Research.

[FR Doc. 92-28357 Filed 11-20-92; 8:45 am]

BILLING CODE 4160-01-F

Indian Health Service

Tribal Management Program for American Indians/Alaska Natives; Grants Application Announcement

AGENCY: Indian Health Service, HHS.

ACTION: Notice of competitive grant applications for Tribal Management Grants for American Indians/Alaska Natives.

SUMMARY: The Indian Health Service (IHS) announces that competitive grant applications are now being accepted for Tribal Management Grants for American Indians/Alaska Natives. These grants are established under the authority of section 103(b)(2) and section 103(e) of the Indian Self-Determination and Education Assistance Act, Public Law 93-638, as amended by Public Law 100-472, 25 U.S.C. 450h(b)(2). There will be only one funding cycle during fiscal year (FY) 1993. This program is described at 93.228 in the Catalog of Federal Domestic Assistance. These grants will be awarded and administered in accordance with this announcement; Department of Health and Human Services regulations governing Public Law 93-638 grants at 42 CFR 36.101 et seq. and 45 CFR part 92, Department of Health and Human Services, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, or 45 CFR part 74, Administration of Grants to non-profit recipients; the Public Health Service Grant Policy Statement; and applicable Office of Management and Budget Circulars. Executive Order 12372 requiring intergovernmental review is not applicable to this program. Public Health Service urges applicants submitting feasibility studies or health plans to address specific objectives of Healthy People 2000. Such interested applicants may obtain a copy of *Healthy People 2000* (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone 202-783-3238).

DATES: A. In accordance with Office of Management and Budget Circular A-102, Grants and Cooperative Agreements for State and Local Governments, interested parties are invited to comment on the proposed funding priorities. This comment period is 60 days; written comments received by (insert date sixty days after date of publication) will be considered before the final funding priorities are established. No funds will be allocated or selections made until a final notice is published stating what funding priorities will be applied. Written comments on the proposed funding priorities should be addressed to: Bea Bowman, Director, Division of Community Services, Indian Health Service, Parklawn Building, room 6A-05, 5600 Fishers Lane, Rockville, Maryland, 20857.

All comments received will be available for public inspection and copying at the Office of Tribal Activities, Indian Health Service, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m., beginning approximately 2 weeks after publication of the notice.

B. Application Receipt Date—An original and two (2) copies of the completed grant application must be submitted with all required documentation to the Grants Management Branch, Division of Acquisition and Grants Operations, Twinbrook Building, Suite 605, 12300 Twinbrook Parkway, Rockville, Maryland 20852, by close of business February 22, 1993.

Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline with hand carried applications received by close of business 5 p.m. or (2) postmarked on or before the deadline and received in time to be reviewed along with all other timely applications. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Late applications not accepted for processing will be returned to the applicant and will not be considered for funding.

B. Additional Dates:

1. Application Review: April 19, 1993.

2. Applicants Notified of Results: on or about June 18, 1993 (approved, recommended for approval but not funded, or disapproved).

3. Anticipated Start Date: August 1, 1993.

CONTACTS FOR ASSISTANCE: For Tribal Management grant program information, contact Ms. Bea Bowman, Division of Community Services, Indian Health Service, Parklawn Building, room 6A-05, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6840. For grant application information, contact Mrs. Kay Carpentier, Grants Management Branch, Indian Health Service, Twinbrook Building, Suite 605, 12300 Twinbrook Parkway, Rockville, Maryland 20852, (301) 443-5204. (The telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: This announcement provides information on the general program purpose, eligibility, programmatic priorities, project types, fund availability, required affiliation, period of support and application procedures for FY 1993.

A. General Program Purpose

To improve the management capacity of a tribal organization to enter into a contract under the Indian Self-Determination Act, Public Law 93–638. Tribal management grants assist tribal organizations in preparing to assume operation of all or part of an existing IHS direct operated health care program by enabling them to develop and maintain their management capabilities.

Tribal Management grants are also available for tribal organizations under the authority of Public Law 93–638 section 103 (e) for obtaining technical assistance from providers designated by the tribal organization, including tribal organizations that operate mature contracts, for the purposes of (1) program planning and evaluation, including the development of any management systems necessary for contract management, and the development of cost allocation plans for indirect cost rates, and (2) the planning, designing, monitoring, and evaluation of Federal health programs serving the tribe, including Federal administrative functions.

Tribal management grants may not be used to support operational programs, or to supplant existing public and private resources. The grants may, however, be used as matching shares for other Federal grant programs that develop tribal capabilities to contract for the administration and operation of health programs.

B. Eligible Applicants

Any federally recognized Indian tribe or Indian tribal organization is eligible to apply for a grant. Applicants include tribal organizations that operate mature contracts who are designated by a tribe or tribes to provide technical assistance and/or training.

C. Program Priorities

The IHS proposes the following funding priorities for awarding Tribal Management grants. Only one tribal management grant will be awarded and funded to a tribe or tribal organization per funding cycle.

Priority I

An Indian tribe that has received Federal recognition (new, restored, unterminated, funded or unfunded) within the past three (3) years and is preparing to contract under Public Law 93–638 to assume operation of health care services. (Verification of documents is required, i.e.: Letter of Acknowledgement, **Federal Register** notice. See Section I, Required Documentation).

Priority II

An Indian tribe or Indian tribal organization currently contracting with IHS, with a stated intention to contract all or part of an existing IHS direct operated service unit health program. Applicants applying under this priority must have current certified management systems, i.e. BIA, IHS, or CPA certified; and resolutions of support from the tribes affected in a multi-tribal service unit.

Priority III

An Indian tribe or Indian tribal organization stating an interest in contracting IHS health programs for the first time. Applicants applying under this priority must have current certified management systems, i.e. BIA, IHS, or CPA certified; or respond to a specific time period within the first quarter of the grant period to establish certified management systems to begin receiving federal funds.

Priority IV

An Indian tribe or Indian tribal organization stating an interest in planning, designing, monitoring, and evaluating Federal health programs serving the tribe, including Federal administrative functions.

Priority V

An Indian tribe or Indian tribal organization currently contracting IHS tribal programs, i.e., Community Health Representative program, Alcohol programs, Emergency Medical Services, etc., and are seeking improvement or expansion of existing tribal health management structure without further contracting.

D. Project Types

The tribal management grant program consists of five (5) types of projects:

(1) Feasibility studies,

(2) Planning,

(3) Development of tribal health management structure,

(4) Human resources development, and

(5) Evaluation.

An Indian tribe or Indian tribal organization, may use grant funds to obtain technical assistance from a designated provider operating health services systems or a tribe/tribal organization that operates mature contracts for development of specific management systems necessary to assume operation of IHS direct operated service unit health programs. A letter of agreement from designated provider operating health services systems and/or Tribal resolutions from the tribes involved in the technical assistance agreements must accompany application.

Note: Projects related to water, sanitation, waste management; and long term care; tuition, fees, stipends for certification and training of staff providing direct services; and design and planning of construction for facilities will not be considered eligible for review. Projects which include training and technical assistance related to the Indian Self-Determination and Education Assistance Act, Public Law 93–638, as amended by Public Law 100–472, will not be considered for funding. Inclusion of these activities in a proposed project shall render the application ineligible and the application will be returned to the applicant.

Project Types Descriptions

1. Feasibility Study

A study of a specific IHS program or segment of a program to determine if tribal management of the program is possible. This study shall indicate necessary plans, approach, training and resources required to assume tribal management of the program. The study shall include, at minimum, four (4) major components:

—Health needs and health care services assessments, which identify existing health care services and delivery system, program divisibility issues, health status indicators, unmet needs, volume projections, and demand analysis.

—Management analysis of existing management structure, proposed management structure, implementation plans and requirements; and personnel staffing requirements and recruitment barriers.

—Financial analysis of historical trends data, financial projections and new resource requirements for program and management costs, and analysis of potential revenues from Federal/Non-Federal sources.

—Decision stage incorporates findings; conclusions and recommendations; and the presentation of the study and recommendations to the governing body for tribal determination as to whether tribal assumption of program(s) is desirable or warranted.

2. Planning

A collection of data to establish goals, policies, methods of action or

procedures for overall tribal health activities. Health plans shall specify the anticipated phasing of tribal assumption and operation of specific IHS programs. A planning study shall include the following components:

—A plan of action including goals and benefits to be obtained.
—The objectives for tribal assumption and operation of selected IHS programs.
—Strategies including methods, policies, and procedures for operation of tribal health programs.
—Detailed plans for each major program or functional area to correspond with the identified goals, benefits, objectives and strategies.

3. Development of Tribal Health Management Structure

The development, or enhancement of management systems (including skills and knowledge to operate the management system) as defined through a feasibility study or health plan. Management studies shall include the following:

—Determine and outline the specific purpose of the program related to design of the management structure.
—Improve the organization of work and worker productivity and achievement, as it relates to the performance of the program as well as the responsibility, leadership and role of management.
—Determine impact of tribal operation on the service population and surrounding community.
—Develop current, short range and long range strategies for tribal operation of programs.

4. Human Resources Development

The development of a particular skill or group of skills required for tribal staff to manage or operate an IHS program. The human resources development training plan shall include:

—Assessment of current staff to identify qualifications (experience and education) and special skills.
—Determination of current human resources requirements in order to provide managerial and administrative competence.
—Project short range and long range management training program based on training needs.

5. Evaluation Studies

Systematic collection, analysis, and interpretation of data for the purpose of determining the value of a program, to be used by decisionmakers to:

—Determine the value or extent of the effects of previous studies as they relate to the goals and objectives, policies and procedures, or programs on target groups.
—Determine effectiveness and efficiency of tribal program operation, i.e. direct services, financial management, personnel, data collection and analysis, and third party billing, which will assist tribal efforts to improve health care delivery systems.

E. Fund Availability

In FY 1993, it is anticipated that approximately $5,000,000 will be available for new and continuing tribal management grants. Although it is expected that project funding needs will vary depending on the scope of work and the review process recommendations, it is anticipated that 75 awards will be issued averaging $67,000 each. Grant funding levels include both direct and indirect costs. Only one project grant will be awarded per tribe or tribal organization. All grant awards are subject to availability of appropriations.

F. Period of Support

1. The start date for approved projects is August 1, 1993. Feasibility studies and planning are limited to a one-year funding award; development of tribal health management structure, human resources development, and evaluation studies may be multi-year projects depending on the scope of work. Each proposal shall address only one (1) project type to be accomplished.

2. Multi-Year Projects—Project periods may be funded up to three years with funding awarded in annual budget periods. Determination of the length of multi-year projects will be based on the scope of work. Projects that are based on previous studies or activities should provide a description of accomplishments to date and establish how this proposed project will accomplish the projected goal. A brief description of the scope of work and funding requirements for each additional year must be submitted with the application. The second and third year continuations will be based on the following criteria: (1) satisfactory progress; (2) availability of funds; and (3) continuation is deemed to be in the best interest of the Government.

G. Application Process

An IHS Tribal Management Grant Application Kit, including required form PHS 5161-1 (rev. 3/89), may be obtained from the Grants Management Branch, Division of Acquisition and Grants Operations, Twinbrook Building, Suite 605, 12300 Twinbrook Parkway, Rockville, Maryland 20852. Telephone (301) 443-5204. Information is being collected on form PHS 5161-1 as well as the narrative form approved under OMB Clearance No. 0937-0189.

H. Application

These instructions are to be used in preparing the narrative and are the instructions on pages 15-18 of the PHS-5161-1. Completed application must include:

1. Abstract (1 page)
2. Table of Contents (1 page)
3. Narrative (25 pages)
a. Introduction
b. Need for Assistance
c. Objective(s), Result, and Benefit Expected
d. Approach
e. Key Personnel
f. Adequacy of Management Controls
4. Appendix (10 pages)

Applications must be complete and contain all information needed for review. Material will not be accepted after the receipt date for inclusion in an application. The application shall consist of no more than 37 pages (including Abstract and Table of Contents). Pages must be numbered. Applications exceeding the 35 pages (excluding Abstract and Table of Content) will not be accepted for review.

1. Abstract

An abstract may not exceed one typewritten page. The abstract should clearly present the grant application in summary form, from a "who-what-when-where-how-cost" point of view so that reviewers see how the multiple parts of the application fit together to form a coherent whole.

2. Table of Contents

A one page typewritten table of content must be included.

3. Narrative

This section of the application should be written in a manner that is self-explanatory to outside reviewers who are unfamiliar with prior related activities of the applicant. It should be succinct and well organized, should not exceed 25 single spaced pages, and include the following:

a. Introduction

—Identify funding priority and provide justification of why the priority was selected.
—Identify the type of project.
—State the type and date of resolution (specific or blanket) submitted with the application. (Refer to Section I, Required Affiliation).

—Projects affecting a multi-tribe service unit must include resolutions of support from the tribes affected.

b. Need for Assistance

—Explain the reason for the project.
—Describe the population to be served by management of tribal health programs, particularly the tribe(s) to benefit and the number of eligible beneficiaries.
—Provide a precise location of the project or area to be served by the proposed project including a map.
—Describe the overall and specific need for assistance by explaining the current situation or demand and unmet requirements (i.e.: Resources, staffing, equipment, training, etc.).
—Identify relevant physical, economic, social, financial, institutional or organizational problems requiring solutions.
—Include relevant statistical and/or historical data to be considered in the project purpose.
—If this project is based on a previous and/or current tribal management grant, describe the accomplishments of the project and how it relates to this application and provide an update on progress. (Do not include copies of reports).

c. Objective(s), Result and Benefit Expected

—State in measurable terms, realistic principal and subordinate objectives of the project.
—Identify the expected results, benefits and outcome or product to be derived from this project.
—Describe the relationship between this project and other work planned, anticipated, or underway which are supported by other Federal funds.

d. Approach

—Outline the workplan, grouping tasks and activities under the objective to be achieved.
—Identify present staffing and proposed positions, include the position descriptions of staff responsible for each activity.
—Provide a workplan of tasks and activities including a start, target milestones and completion date on a calendar timeline.
—Discuss data collection for the project, how it will be obtained, analyzed, and maintained by the project.
—Describe any unusual features which may affect the project, (i.e.: Unique design, reduction in cost or time, or special organizational or community involvement).
—If a consultant or contractor is to be used, provide the scope of work to be performed for the project.
—Identify the accomplishments (deliverables/outcomes) to be achieved.
—Identify who will review and accept the work products of the project deliverable/outcomes.
—Describe the evaluation component of the project to determine the project accomplishments.
—Identify individuals/group to whom the evaluation and final results of the grant will be presented for acceptability or further decision within the tribal/organizational structure.

e. Key Personnel

—Provide a position description and resume for the project director/staff, including experience, and formal education/training that is related to the success of this project.
—List the qualifications and experience of consultant(s) where their use is anticipated.

f. Adequacy of Management Controls

—Prepare an itemized budget, i.e., line item or cost category for the budget period, supported by a narrative rationale and justification for cost and purchases for the project.
—If indirect costs are claimed, applicant must submit a copy of Indirect Cost Rate Agreement supporting this claim.
—Describe where the project will be housed, i.e. facilities and equipment available.
—List equipment purchases necessary for implementation of the project; include narrative rationale and justification for computer hardware/software.
—Identify the IHS area office staff contacted to ensure the compatibility of any ADP equipment/software purchases with IHS systems.
—Describe the management control of the tribe/tribal organization over the direction and acceptability of work to be performed by the consultant.
—Demonstrate that the organization has adequate systems and expertise to manage Federal funds.
—Provide documentation of current certified financial management systems, i.e., BIA, IHS, or CPA certified.
—First time applicants respond to special requirement of establishing certified management systems to begin receiving federal funds.

4. Appendix

Up to 10 typewritten pages may be used, i.e., map, tribal resolution, organizational chart, resumes, cost agreement documentation, etc.

I. Required Documentation

A. Documentation of Newly Recognized Tribes

A copy of the **Federal Register** Notice or letter from the Bureau of Indian Affairs verifying tribal status must accompany the application.

B. Tribal Resolution

(1) A resolution of the Indian Tribe served by the project must accompany the application submission.

(2) Applications which propose projects affecting more than one Indian tribe must include resolutions from all affected tribes to be served.

(3) Applications by tribal organizations will not require a specific tribal resolution(s) if the current tribal resolution(s) under which they operate would encompass the proposed grant activities. A statement of proof or a copy of the current operational resolution must accompany the application. If a resolution or a statement is not submitted, the application will be considered incomplete and will be returned without consideration.

J. Assurances

The application shall contain assurances to the Secretary that the applicant will comply with program regulations, 42 CFR part 36 subpart H.

K. Reporting

1. Progress Report

Program progress reports will be submitted quarterly with a final report for each budget period to be included in the continuation application. A final progress report will be due for the final budget period 90 days after the end of the project period.

2. Financial Status Report

Quarterly financial status reports will be submitted with a final status report due 90 days after the end of each budget period. Standard Form 269 (long form) will be used for financial reporting.

L. Grant Administration Requirements

Grants are administered in accordance with the following documents:

1. 45 CFR part 92, Department of Health and Human Services, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, or 45 CFR part 74, Administration of Grants to Non-profit recipients.

2. Public Health Service Grant Policy Statement, and

3. Appropriate Cost Principles: OMB Circular A-87, State and Local Governments, or OMB Circular A-122, Non-profit Organizations.

M. Objective Review Process

Applications meeting eligibility requirements that are complete and conform to this program announcement will be reviewed by a centralized Ad Hoc Objective Review Committee (ORC) appointed by IHS primarily for review of these applications. The review will be conducted at the IHS Headquarters and in accordance with IHS objective review procedures. The objective review process ensures nationwide competition for limited funding. The ORC will be comprised of IHS (40% or less) and other federal or non-federal individuals (60% or more) with appropriate expertise. The ORC will review each application against established criteria. Based upon the evaluation criteria, the reviewers assign a numerical score to each application, which will be used in making the final funding decision.

N. A. Evaluation Criteria

To score individual applications, the following weights and criterion are considered:

Weights	Criteria
5	Introduction.
10	Need for Assistance.
25	Results.
35	Approach.
10	Key Personnel.
15	Adequacy of Management Controls.
100	Total Criterion Weight.

1. Introduction

—Does the Introduction have the funding priority identified and justified?
—Is only one project type selected?
—Is a specific/blanket tribal resolution attached to the application?
—Is the approved tribal resolution (specific/blanket) current?

2. Need for Assistance

—Is there an explanation of the reason for the project?
—Is the precise location of the project or area to be served by the proposed project including a map provided?
—Does it describe the overall and specific need for assistance by explaining the current situation or demand and unmet requirements (i.e.: Resources, staffing, equipment, training, etc.)?
—Are relevant statistical/historical data included?
—Is data collection, analysis and maintenance addressed?
—State impact of previous or current tribal management grant on this application.

3. Objective(s), Result and Benefit Expected

—Principal and subordinate objectives of the project are stated in realistic and measurable terms?
—The population, number of participants and personnel to benefit from the project are defined?
—The expected results, benefits and outcome or product to be derived from this project are identified?
—The relationship between this project and other work planned, anticipated, or underway which are supported by other Federal funds are identified?

4. Approach

—An outline of the plan of action and program activities to achieve each objective is provided?
—Activities are grouped under the objective they are designed to achieve?
—Indicates staff position responsible for each activity?
—Identifies IHS staff used for technical assistance, if any?
—Provides a workplan including start and completion calendar of activities?
—Identifies collection, analysis and maintenance of data related to project?
—If required, identifies the scope of work for a consultant or contractor?
—Describes any unusual features of the project, which may affect the project (i.e.: design, uniqueness, reduction in cost or time, or special organizational or community involvement?
—Identifies the accomplishments, deliverables/outcomes to be achieved?
—Identifies the accomplishments, deliverables/outcomes to be achieved?
—Identifies who will review and accept the project deliverables/outcomes?
—Describes the evaluation component of the project in a plan which will accomplish objectives (deliverables/outcomes)?
—Identifies who in the tribal/organization structure will receive the evaluation report and final results of the grant?

5. Key Personnel

—Resumes and position descriptions are provided for all project staff and director?
—Position descriptions are provided for project staff to be recruited for the project?
—Are qualifications and experience of consultants or contractors identified and appropriate where applicable?

6. Adequacy of Management Controls

—Prepares a budget and narrative justification. The budget justification narrative provides a rationale for total project costs, i.e. staff, equipment, supplies, contractual agreements, travel, training, etc., directly related to the project.
—Describes application of Indian Preference in recruitment and hiring of positions and work to be contracted.
—Describes adequacy of facilities and equipment for the project?
—Lists equipment purchases necessary for implementation of the project, include a narrative rationale and justification (i.e., computer hardware/software)?
—Identifies the IHS Area Office contact used to determine compatibility of ADP equipment purchases with IHS systems?
—Demonstrates that the applicant organization has adequate systems and expertise to manage Federal funds.
—Provides documentation of current certified financial management systems, i.e. BIA, IHS, or CPA certified.
—First time applicant includes plan to meet special requirement of establishing certified management systems to begin receiving federal funds.

B. Qualitative Rating Factors For the Criteria are

1.0=Excellent—very comprehensive, in-depth clear response. The application meets this standard with no omissions. Consistently high performance can be expected.

0.8=Very Good—extensive, detailed application similar to excellent in quality, but with minor area requiring additional clarification. High quality performance is likely, but not assured due to minor omissions or areas where less than excellent performance might be expected.

0.6=Good—no deficiencies in the response. Better than acceptable performance can be expected, but in some significant area there is lack of clarity which might impact on performance.

0.4=Fair—The response generally meets minimum standards. Existing deficiencies are confined to areas with minor impact on performance and can be corrected without revision.

0.2=Marginal—deficiencies exist in significant areas. The application can be

corrected without major revision or serious deficiencies exist in areas with minor impact.

0.0=Unsatisfactory—serious deficiencies exist in significant areas. The project cannot be expected to meet minimum requirements without revisions. The application only indicates a willingness to perform a project without specifying how or demonstrating the capacity to do so. Only vague indications exist regarding capability.

O. Results of the Review

The results of the Objective Review Committee are forwarded to the Associate Director, Office of Tribal Activities, for final review and approval. Applicants are notified of their approval or approval without funds, on or about June 18, 1993. A Notice of Grant Award will be issued approximately ten (10) days prior to the start date of August 1, 1993. Unsuccessful applicants are notified in writing of disapproval not later than June 18, 1993. A brief explanation of the reasons the application was not approved is provided along with the name of an IHS official to contact if more information is desired.

Dated: September 15, 1992.

Michel E. Lincoln,

Deputy Director.

[FR Doc. 92-28331 Filed 11-20-92; 8:45 am]

BILLING CODE 4160-16-M

National Institutes of Health

Environmental Impact Statement; Poolesville, Montgomery County, MD

AGENCY: National Institutes of Health (NIH), HHS.

ACTION: Notice of intent.

SUMMARY: The National Institutes of Health (NIH) is issuing this notice to advise the public that an environmental impact statement (EIS), in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., will be prepared for a proposed master plan for the NIH Animal Center (NIHAC) in Poolesville, MD.

FOR FURTHER INFORMATION CONTACT: Mr. William Fedyna, Office of Communications, National Institutes of Health, Building 1, room 350, 9000 Rockville Pike, Bethesda, MD, 20892, telephone (301) 496-1776—this is not a toll-free number.

SUPPLEMENTARY INFORMATION: The 510-acre NIHAC site is located about three miles west of Poolesville, MD, in the western corner of Montgomery County. The site is used primarily for housing and breeding animals used by NIH in research at the Bethesda campus. Approximately 100 employees work in a number of small buildings comprising about 250,000 gross square feet of area at this site. A large part of the site is used as pasture land for the animals. The current master plan was approved in 1969. Any planning decisions regarding the Bethesda campus must take the role and future function of the NIHAC into consideration. The NIH, therefore, intends to prepare a master plan for the NIHAC covering future development, land use, buildings, utilities, open space, circulation, and traffic management for the next twenty years. Development alternatives including the no-action alternative will be developed and evaluated.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held in early 1993. In addition, a public hearing will be held. Public notice will be given of the time and place for the meetings and hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing. A public scoping meeting will be held in January 1993 at a place and time to be announced.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to NIH at the address and/or telephone number provided above.

Dated: November 13, 1992.

Bernadine Healy, M.D.,

Director, NIH.

[FR Doc. 92-28327 Filed 11-20-92; 8:45 am]

BILLING CODE 4140-01-M

Environmental Impact Statement; Bethesda, Montgomery County, MD

AGENCY: National Institutes of Health (NIH), HHS.

ACTION: Notice of intent.

SUMMARY: The National Institutes of Health (NIH) is issuing this notice to advise the public that an environmental impact statement (EIS), in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., will be prepared for a proposed master plan for the NIH campus in Bethesda, MD.

FOR FURTHER INFORMATION CONTACT: Mr. William Fedyna, Office of Communications, National Institutes of Health, Building 1, room 350, 9000 Rockville Pike, Bethesda, MD 20892, telephone (301) 496-1776—this is not a toll-free number.

SUPPLEMENTARY INFORMATION: The 319-acre NIH Bethesda campus is located about one mile north of Bethesda, MD, on the west side of Rockville Pike (Maryland Route 355). The campus is the primary location for biomedical research conducted directly by the Federal Government. Approximately 16,000 employees work in over 70 buildings comprising more than 7 million gross square feet of area at this site and housing offices, laboratories, animal facilities, a large clinical research hospital, as well as various support functions. The current master plan was approved in 1972, Since then, significant growth on- and off-campus, the aging of the physical facilities and infrastructure, and the expansion of various biomedical research programs at NIH have rendered the existing plan nearly obsolete. In order to accomplish its mission, NIH needs to have an updated, comprehensive master plan, that can ensure orderly growth and efficient accommodation of future research programs. The NIH, therefore, intends to prepare a master plan covering future site development, land use, buildings, utilities, open space, urban design, circulation, parking and traffic management on the Bethesda campus for the next twenty years. Development alternatives, including the no-action alternative, will be developed and evaluated.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held between December 1992 and March 1993. In addition, a public hearing will be held. Public notice will be given of the time and place for the meetings and hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing. A public scoping meeting will be held on December 3, 1992, 7 p.m., at the Masur Auditorium of the NIH Warren Grant Magnuson Clinical Center on the Bethesda campus.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

Comments or questions concerning this proposed action and the EIS should be directed to NIH at the address and/or telephone number provided above.

Dated: November 13, 1992

Bernadine Healy, M.D.,

Director, NIH.

[FR Doc. 92-28326 Filed 11-20-92; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Opportunity for a Cooperative Research and Development Agreement (CRADA) for the Biomedical Use of Stabilized Nitric Oxide Complexes

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) seeks an agreement with a pharmaceutical or biotechnology company for the joint research, development, evaluation and possible commercialization of nucleophile/nitric oxide complexes. Any CRADA to use the controlled release of nitric oxide as a research tool or in drug design will be considered.

ADDRESS: Proposals and questions about this opportunity may be addressed to Dr. Raphe Kantor, Office of Technology Development, National Cancer Institute-Frederick Cancer Research and Development Center, Building 427, rm. 35, Frederick, MD 21702-1201 (301-846-5465).

DATE: Proposals must be received by January 7, 1993.

SUPPLEMENTARY INFORMATION: Nitric oxide (NO) has been implicated as an important bioregulatory mediator in a variety of processes including the normal physiological control of blood pressure, inhibition of platelet aggregation/adhesion, bronchodilation, penile erection, immunologically induced cytostasis and neurotransmission. Scientists at the National Cancer Institute-Frederick Cancer Research and Development Center have discovered that complexes of nitric oxide with various nucleophiles can be used for the controlled biological release of NO and that this spontaneous, nonenzymatic release of NO can be used to mediate a number of biological responses. For example, selected members of this series have been shown to compare favorably as vasodilators and antiplatelet agents with pharmaceutical preparations used clinically for these purposes. Background information including reprints and issued patents is available from the above-referenced address. Patent applications and pertinent information not yet publicly described can be obtained under a Confidential Disclosure Agreement.

To speed the research, development and commercialization of this new class of drugs, the Government is seeking an agreement with a pharmaceutical or biotechnology company in accordance with the regulations governing the transfer of Government-developed agents (37 CFR 404.8). Proposals relating to any biomedical area will be considered.

CRADA aims include the rapid publication of research results and the timely exploitation of commercial opportunities. The CRADA partner will enjoy rights of first negotiation for licensing Government rights to any inventions arising under the agreement and will advance funds payable upon signing the CRADA to help defray Government expenses for patenting such inventions and other CRADA-related costs.

The role of the Division of Cancer Etiology, NCI-FCRDC, in this CRADA will be as follows:

1. Provide the Collaborator with samples of the subject compounds for pharmaceutical evaluation.

2. Synthesize structural variants of these subject compounds to optimize desired effects.

3. Continue the detailed physicochemical characterization of the test compounds as well as research on their mechanism of biological action. Publish these results and provide all data to the Collaborator as soon as they become available.

The role of the Collaborator will be to perform an exhaustive evaluation of nucleophile/NO adducts and derivatives thereof with respect to the biological activities covered in the CRADA. The Collaborator will supply data to the NCI in a timely fashion.

Selection criteria for choosing the CRADA partner will include but not be limited to:

1. Ability to complete the quality pharmacological evaluations required according to an appropriate timetable to be outlined in the Collaborator's proposal. The target commercial application as well as the strategy for evaluating the test agents' potential in that capacity must be clearly delineated therein.

2. The level of financial support the Collaborator will supply for CRADA-related Government activities.

3. A willingness to cooperate with the National Cancer Institute in the publication of research results.

4. An agreement to be bound by the DHHS rules involving human subjects, patent rights and ethical treatment of animals.

5. Provisions for equitable distribution of patent rights to any inventions. Generally, the rights of ownership are retained by the organization which is the employer of the inventor, with (1) an irrevocable, nonexclusive, royalty-free license to the Government (when a company employee is the sole inventor) or (2) an exclusive or nonexclusive license to the company on terms that are appropriate (when the Government employee is the sole inventor).

The following is a listing of Dr. Keefer's patent portfolio for the stabilized nitric oxide compound technology which is available for licensing or further development under a CRADA:

Anti-Hypertensive Compositions Of Secondary Amine-Nitric Oxide Adducts And Use Thereof
Keefer, L.K., Wink, D.A., Dunams, T.M., Hrabie, J.A. (NCI)
Filed 12 Aug 91
Serial No. 07/743,892 (CIP of 07/409,552)

Therapeutic Inhibition Of Platelet Aggregation By Nucleophile-Nitric Oxide Complexes And Derivatives Thereof
Diodati, J.G., Keefer, L.K. (NHLBI)
Filed 24 Sep 91
Serial No. 07/764,906

Prodrug Derivatives of Nucleophile-Nitric Oxide Adducts As Agents For The Treatment Of Cardiovascular Disorders
Keefer, L.K., Dunams, T.M., Saavedra, J.E. (NCI)
Filed 22 Sep 92
DHHS Case No. E-048-91/1 (CIP of Serial No. 07/764,908)

Mixed Ligand Metal Complexes of Nitric Oxide Nucleophile Adducts Useful as Cardiovascular Agents
Christodoulou, D.D., Wink, D.A., Keefer, L.K. (NCI)
Filed 27 Mar 92
Serial No. 07/858,885

Method of Controlling Cell Proliferation and Pharmaceutical Composition Therefor
Maragos, C.M., Wang, J.M., Keefer, L.K., Oppenheim, J.J. (NCI)
Filed 13 Apr 92
Serial No. 07/867,759

Complexes Of Nitric Oxide With Polyamines
Keefer, L.K., Hrabie, J.A. (NCI)
Issued 10/13/92
U.S. Patent No. 5,155,173

Complexes Of Nitric Oxide With Polyamines
Keefer, L.K., Hrabie, J.A. (NCI)
Filed 30 June 92
Serial No. 07/906,479 (CIP of 07/

585,793)
Antihypertensive Compositions and Use Thereof
Keefer, L.K., Wink, D.A., Dunams, T.M., Hrabie, J.A. (NCI)
Filed 18 Oct 89
Serial No. 07/423,279
Anti-hypertensive Compositions Of Secondary Amine-Nitric Oxide Adducts And Use Thereof
Keefer, L.K., Wink, D.A., Dunams, T.M., Hrabie, J.A. (NCI)
Serial No. 07/409,552
Patent Issued 13 August 91
U.S. Patent No. 5,039,705
Stabilized Nitric Oxide-Primary Amine Complexes Useful as Cardiovascular Agents
Keefer, L.K., Wink, D.A., Dunams, T.M., Hrabie, J.A. (NCI)
Serial No. 07/316,958
Patent Issued 4 Sep 90
U.S. Patent No. 4,954,526
Polymer-Bound Nitric Oxide/Nucleophile Adduct Compositions, Pharmaceutical Compositions Incorporating Same and Methods of Treating Biological Disorders Using Same
Keefer, L.K. and Hrabie, J.A. (NCI)
Filed 24 Aug 92
Serial Number 07/935,565

Dated: November 4, 1992.

Reid G. Adler,

Director, Office of Technology Transfer. National Institutes of Health.

[FR Doc. 92-28298 Filed 11-20-92; 8:45 am]

BILLING CODE 4140-01-M

Office of Technology Transfer; Opportunity for Licensing for the Biomedical Use of Stabilized Nitric Oxide Complexes

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) is making the following inventions available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESS: Proposals and questions about this opportunity may be addressed to Carol Lavrich, M.B.A. National Institutes of Health, Office of Technology Transfer, Licensing Branch. Box OTT, Bethesda, MD 20892 (telephone (301/496-7735; fax 301/402-0220).

SUPPLEMENTARY INFORMATION: Nitric oxide (NO) has been implicated as an important bioregulatory mediator in a variety of processes including the normal physiological control of blood pressure, inhibition of platelet aggregation/adhesion, bronchodilation, penile erection, immunologically-induced cytostasis and neurotransmissions. Scientists at the National Institutes of Health have discovered that complexes of nitric oxide with various nucleophiles can be used for the controlled biological release of NO and that this spontaneous, nonenzymatic release of NO can be used to mediate a number of biological responses. For example, selected members of this series have been shown to compare favorably as vasodilators and antiplatelet agents with pharmaceutical preparations used clinically for these purposes. Background information including reprints and issued patents are available from the above-referenced address. Patent applications and pertinent information not yet publicly described can be obtained under a Confidential Disclosure Agreement.

To speed the research, development and commercialization of this new class of drugs, the Government is seeking a licensing agreement with a pharmaceutical or biotechnology company in accordance with the regulations governing the transfer of Government-developed agents (37 CFR 404.8). Proposals relating to any biomedical area will be considered.

The following is a listing of Dr. Keefer's patent portfolio for the stabilized nitric oxide compound technology which is available for licensing:

Anti-Hypertensive Compositions Of Secondary Amine-Nitric Oxide Adducts And Use Thereof
Keefer, L.K., Wink, D.A., Dunams, T.M., Hrabie, J.A. (NCI)
Filed 12 Aug 91
Serial No. 07/743,892 (CIP of 07/409,552)
Therapeutic Inhibition Of Platelet Aggregation By Nucleophile-Nitric Oxide Complexes And Derivatives Thereof
Diodati, J.G., Keefer, L.K (NHLBI)
Filed 24 Sep 91
Serial No. 07/764,906
Prodrug Derivatives Of Nucleophile-Nitric Oxide Adducts As Agents For The Treatment Of Cardiovascular Disorders
Keefer, L.K., Dunams, T.M., Saavedra, J.E. (NCI)
Filed 22 Sep 92
DHHS Case No. E-048-91/0 (CIP of Serial No. 07/764,908)
Mixed Ligand Metal Complexes of Nitric Oxide Nucleophile Adducts Useful as Cardiovascular Agents
Christodoulou, D.D., Wink, D.A., Keefer, L.K. (NCI)
Filed 27 Mar 92
Serial No. 07/858,885
Method of Controlling Cell Proliferation and Pharmaceutical Composition Therefor
Maragos, C.M., Wang, J.M., Keefer, L.K., Oppenheim, J.J. (NCI)
Filed 13 Apr 92
Serial No. 07/867,759
Complexes Of Nitric Oxide With Polyamines
Keefer, L.K. Hrabie, J.A. (NCI)
Issued 10/13/92
U.S. Patent No. 5, 155, 173
Complexes Of Nitric Oxide With Polyamines
Keefer, L.K., Hrabie, J.A. (NCI)
filed 30 June 92
Serial No. 07/906,479 (CIP of 07/585,793)
Antihypertensive Compositions and Use Thereof
Keefer, L.K., Wink, D.A., Dunams, T.M., Hrabie, J.A. (NCI)
Filed 18 Oct 89
Serial No. 07/423,279
Anti-hypertensive Compositions Of Secondary Amine-Nitric Oxide Adducts And Use Thereof
Keefer, L.K., Wink, D.A., Dunams, T.M., Hrabie, J.A. (NCI)
Serial No. 07/409,552
Patent Issued 13 August 91
U.S. Patent No. 5,039,705
Stabilized Nitric Oxide-Primary Amine Complexes Useful as Cardiovascular Agents
Keefer, L.K., Wink, D.A., Dunams, T.M., Hrabie, J.A. (NCI)
Serial No. 07/316,958
Patent Issued 4 Sep 90
U.S. Patent No. 4,954,526
Polymer-Bound Nitric Oxide/Nucleophile Adduct Compositions, Pharmaceutical Compositions Incorporating Same and Methods of Treating Biological Disorders Using Same
Keefer, L.K. and Hrabie, J.A. (NCI)
Filed 24 Aug 92
Serial Number 07/935,565

Dated: November 4, 1992.

Reid G. Adler,

Director, Office of Technology Transfer. National Institutes of Health.

[FR Doc. 92-28299 Filed 11-20-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting; National Diabetes Advisory Board

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Diabetes Advisory Board on December 7–8, 1992. The Board will meet on Monday, December 7 from 8 a.m. to approximately 5 p.m. to discuss diabetes related activities of the Department of Veterans Affairs. On Tuesday, December 8, the Board meeting will begin at 8:30 a.m. and adjourn at approximately 3:15 p.m. Discussion will be devoted to plans for addressing diabetes translation activities and future activities of the Board. The meeting will be held at the Crystal City Marriott, 1999 Jefferson Davis Highway, Crystal City, Virginia. Although the entire meeting will be open to the public, attendance will be limited to space available.

For any further information, please contact Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496–6045. His office will provide, for example, a membership roster of the Board and an agenda and summaries of the actual meetings.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health.)

Dated: November 12, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–28300 Filed 11–20–92; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting of the Developmental Therapeutics Contracts Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Developmental Therapeutics Contracts Review Committee, National Cancer Institute, National Institutes of Health, January 15, 1993, The Bethesda Holiday Inn, Montgomery Conference Room, 8120 Wisconsin Avenue, Bethesda, Maryland 20892.

This meeting will be open to the public on January 15 from 9 a.m. to 10 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on January 15 from 10 a.m. to adjournment for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide a summary of the meeting and a roster of committee members upon request.

Dr. Susan E. Feinman, Scientific Review Administrator, Developmental Therapeutics Contracts Review Committee, 5333 Westbard Avenue, room 809, Bethesda, Maryland 20892 (301/402–0944) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: November 12, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–28296 Filed 11–20–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Advisory Board Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Deafness and Other Communication Disorders Advisory Board on January 8, 1993. The meeting will take place from 8:30 a.m. to 4:30 p.m. in Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting, which will be open to the public, is being held to discuss the Board's activities and to present special reports. Attendance by the public will be limited to the space available.

Summaries of the Board's meeting and a roster of members may be obtained from Ms. Monica Davies, Executive Director, National Deafness and Other Communication Disorders Advisory Board, Building 31, room 3C08, National Institutes of Health, Bethesda, Maryland 20892, 301–402–1129, upon request.

(Catalog of Federal Domestic Assistance Program No. 93.173, Biological Research Related to Deafness and Other Communication Disorders.)

Dated: November 13, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–28301 Filed 11–20–92; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Meetings

Pursuant to Public Law 92–463, notice is hereby given of meetings of the Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel.

These meetings will be closed in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of grant applications in the areas of the behavioral and neurosciences. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7534, will furnish summaries of the meetings and rosters of panel members. Since it is necessary to announce meetings well in advance of the actual meeting, it is suggested that anyone planning to attend a meeting contact the Scientific Review Administrator to confirm the exact date, time and location.

Meeting to Review Small Business Innovation Research Program Applications

Scientific Review Administrator: Dr. Keith Murray (301) 496–7058.

Date of Meeting: December 8, 1992.

Place of Meeting: Omni Georgetown. Washington, DC.

Time of Meeting: 8:30 a.m.

Meeting to Review Individual Grant Applications

Scientific Review Administrator: Dr. Peggy McCardle (301) 496–7640.

Date of Meeting: December 16, 1992.

Place of Meeting: Westwood Building—room 305, 5333 Westbard Avenue, Bethesda, MD. (Telephone Conference).

Time of Meeting: 10:30 a.m

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–

93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 12, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–28297 Filed 11–20–92; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–92–3526; FR–3371–N–01]

Notice for Federally Assisted Low Income Housing Drug Elimination Grants

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner.

ACTION: Notice of extension of application due date and additional funding for Federally Assisted Low Income Housing Drug Elimination Grants—FY–1993.

SUMMARY: This NOFA announces HUD's FY 1993 funding of up to $10,000,000 for Federally Assisted Low Income Housing Drug Elimination Grants and an extension of the application due date for applicants who have not also applied for funding under the FY 1992 NOFA for this program.

Note: This NOFA does NOT apply to the funding available under the program for Public and Indian Housing.)

DATES: No applications will be accepted after 4 p.m. (local time) for the Regional Office on January 22, 1993. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. A "FAX" will not constitute delivery. Applicants who have already submitted an application under the FY 1992 NOFA for this program may not submit applications for funding under this NOFA.

ADDRESSES: (a) *Application Form:* An application form may be obtained from the HUD Regional Office having jurisdiction over the location of the applicant project. The Regional Office will be available to provide technical assistance on the preparation of applications during the application period.

(b) Application Submission: Applications (original and one copy) must be received by the deadline at the appropriate HUD Regional Office with jurisdiction over the applicant project, Attention: Regional Director of Housing. It is not sufficient for the application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable. Applications received after the deadline will not be considered.

FOR FURTHER INFORMATION CONTACT: For application material and project-specific guidance, the Office of the Director of Housing in the HUD Regional Office having jurisdiction over the project(s) in question. These are listed as follows:

Region I, Boston, Nick Nibi, (617) 565–5102
Region II, New York, Edwin Sprenger, (212) 264–4771
Region III, Philadelphia, Sidney Severe, (215) 597–2645
Region IV, Atlanta, Kenneth Williams, (404) 331–4127
Region V, Chicago, Michael Kulick, (312) 353–6950
Region VI, Fort Worth, Robert Creech, (817) 885–5531
Region VII, Gary Hayes, (913) 236–3812
Region VIII, Denver, Ronald Bailey, (303) 844–4959
Region IX, San Francisco, Keith Axtell, (415) 556–0796
Region X, Seattle, Diana Goodwin Shavey, (206) 553–4373

Policy questions of a general nature may be referred to Lessley Wiles, Office of Multifamily Housing Management, Department of Housing and Urban Development, room 6166, 451 Seventh Street, SW, Washington, DC 20410. Telephone (202) 708–0216. TDD number (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: A Notice of Funding Availability (NOFA) announcing HUD's FY 1992 funding of $10,000,000 for Federally Assisted Low Income Housing Drug Elimination Grants was published on August 28, 1992 (57 FR 39318). A notice making a technical amendment to this NOFA and extending the application due date to November 9, 1992 was published on October 6, 1992 (57 FR 46039).

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act 1993, (approved October 6, 1992, Public Law 102–389) (93 App. Act) made $10,000,000 available for Federally assisted Low Income Housing Drug Elimination Grants for FY 1993.

Because of the large number of applications that were received for funding under the FY 1992 NOFA, and to make the FY 1993 funds available as soon as possible, the Department is combining the FY 1992 and 1993 funds into a single competition under this notice. All of the applications received for the FY 1992 NOFA will be considered for funding from this larger pool of up to $20,000,000, depending upon the allotment of FY 1993 funds for this program to the Department.

In addition, the Department is extending the application due date to January 22, 1993, to give additional applicants an opportunity to apply for funding under this program. However, applicants who have already submitted an application may not submit an additional application.

The total of up to $20,000,000 announced as available in this notice will be awarded under the same terms set forth in the FY 1992 NOFA, cited above.

Authority: 42 U.S.C. 11901 *et seq.*

Dated: November 17, 1992.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 92–28382 Filed 11–20–92; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–03–4120–03]

AGENCY: Bureau of Land Management, Interior, Wyoming.

ACTION: Public notice of a lease by application (LBA) for the Shell Mining Company North Roundup Tract, Campbell County, Wyoming, (WYW127221).

SUMMARY: In accordance with the Powder River Operational Guidelines for Coal Leasing-By-Application approved by the Powder River Regional Coal Team (PRRCT) on April 3, 1990, the Bureau of Land Management (BLM) is announcing that a coal lease application has been received in the Wyoming portion of the Powder River Coal Region (PRCR).

DATES: Comments on the LBA must be received at the address below no later than c.o.b. January 8, 1993.

ADDRESSES: Comments should be sent to Attention: Lynn E. Rust, Chief, Branch of Mining Law and Solid Minerals, or Eugene Jonart, Wyoming Coal Coordinator, Bureau of Land Management (WS0925), P.O. Box 1828,

Cheyenne, Wyoming 82003, Telephone 307 775–6250.

FOR FURTHER INFORMATION CONTACT: For more information contact either Mr. Rust or Mr. Jonart at the office identified above.

SUPPLEMENTARY INFORMATION: Shell Mining Company of Houston, Texas has filed a Federal coal lease application identified by case file serial number WYW127221. The application affects the following described lands located in Campbell County, Wyoming.

T. 42 N., R. 70 W., 6th P.M. Wyoming,
Sec. 4: Lots 5 thru 16, 19, and 20;
Sec. 5: Lots 5 thru 16;
Sec. 9: Lot 1.
T. 43 N., R. 70 W,
Sec. 32: Lots 9 thru 11, 14 thru 16;
Sec. 33: Lots 11 thru 14.

These lands contain 1,439.920 acres, more or less, and contain an estimated 140 million tons of coal. They are located about 15 miles southeast of Wright, Wyoming. The application was filed as a lease-by-application (LBA) for the purpose of extending the producing life of the existing North Rochelle mine. The BLM has not developed a schedule for processing this application at the current time. Within forty-five (45) days after the publication of this notice in the Federal Register, any issues that the public cares to address or any inputs concerning the application should be presented to the State Director (925), Wyoming State Office, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003. Comments should identify the application by its serial number WYW127221. The Bureau is particularly interested in comments concerning environmental factors and recovery of the coal resource. Other public input opportunities will follow in the processing of this application, it is most appropriate that public concerns be addressed at this early stage.

Dale L. Wadleigh,

Acting Chief, Branch of Mining Law and Solid Minerals.

[FR Doc. 92–28415 Filed 11–20–92; 8:45 am]

BILLING CODE 4310–22–M

[G–970–4110–01/G–910–G3–00007]

Farmington District Advisory Council; Call for Nominations.

AGENCY: Bureau of Land Management, Interior.

ACTION: Farmington District Advisory Council, call for nominations

SUMMARY: BLM's district advisory councils (DACs) are mandated by section 309(a) of the Federal Land Policy and Management Act of 1976, as amended by section 13 of the Public Rangelands Improvement Act of 1978, 43 U.S.C. 1739. Under our governing regulations, 43 CFR 1784.6–4(a), an advisory council must be established for each BLM district.

Under a BLM reorganization in New Mexico, the former Farmington Resource Area of the Albuquerque District is scheduled to become the new Farmington District on January 1, 1993. An advisory council must now be established for that district.

The purpose of this notice is to solicit public nominations to fill 10 positions on the Bureau of Land Management's (BLM) proposed Farmington District Advisory Council.

The Council will be composed of 10 members. The first members will be appointed to serve for three terms, beginning on or about January 1, 1993, and staggered as follows: Three members to be appointed for the 1-year term ending December 31, 1993; three members to be appointed for the 2-year term ending December 31, 1994; and four members to be appointed for the 3-year term ending December 31, 1995. Subsequent appointments will be made for 3-year terms. Members' eligibility for reappointment to additional terms are subject to the governing regulations (43 CFR 1784.3(b)). Appointments made by the Secretary of the Interior pursuant to this call will assure representation for specific categories of interest on the council.

To assure council membership that is fairly balanced in terms of points of view represented and functions performed, nominees must be qualified to provide advice in one of the following categories of interest:

Elected General Purpose Government.
Environmental Protection.
Recreation.
Renewable Resources (livestock, forestry, agriculture).
Non-Renewable Resources (mining, oil and gas, extractive industries).
Transportation/Rights-of-Way (or occupancy issues).
Wildlife.
Public-at-large.

The purpose of the Council is to provide informed advice to the BLM Farmington District Manager on the management of the public lands in the Farmington District. Members will serve without salary, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

The Council normally will meet at least twice annually. Additional meetings may be called by the District Manager or his designee in connection with special needs for advice.

Persons wishing to nominate individuals or to be nominated to serve on the Council should contact the Area Manager at the address below. They should then provide the Area Manager with the names, addresses, occupations, and other relevant biographical information of qualified nominees.

DATES: All nominations should be received within thirty (30) days from the date of issuance of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Pool, Farmington Area Manager, Bureau of Land Management, 1235 La Plata Highway, Farmington, NM 87401.

Dated: November 12, 1992.

John Phillips,

Assistant Area Manager.

[FR Doc. 92–28332 Filed 11–20–92; 8:45 am]

BILLING CODE 4310–FB–M

[ORO80–01–6310–12 (3–047)]

Salem District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Meeting of the Salem District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Public Law 94–579 and 43 CFR part 1780 that a meeting of the Salem District Advisory Council will be held Monday, December 21, beginning at 1:30 p.m. The meeting will be held in the Salem District Office, 1717 Fabry Rd. SE., Salem, OR.

AGENDA: The Salem District Advisory Council will report to Salem District Manager Van W. Manning on their review of the draft BLM Salem District Land Use Plan and Preferred Alternative.

The meeting is open to the public. Anyone wishing to make an oral statement must notify the District Manager at the Salem District Office, 1717 Fabry Road SE., Salem, Oregon 97306 by December 15, 1992. Written comments will also be received for the Council's considerations. Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during business hours) within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Tricia Hogervorst-Rukke, Salem District Public Affairs at 1717 Fabry Rd. SE.,

Salem, Oregon 97306 Telephone: 503-375-5657

Mark Lawrence,

Acting Salem District Manager.

[FR Doc. 92-28325 Filed 11-20-92; 8:45 am]

BILLING CODE 4310-33-M

[WY-010-03-4320-01]

Worland District Grazing Board and Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a Joint Worland District Grazing Board and Advisory Council Meeting.

SUMMARY: The Worland District Bureau of Land Management (BLM) hereby announced a joint Grazing Board and Advisory Council meeting to be held at 7:00 pm on Thursday, December 3, 1992, in the Worland District Office Main Conference Room. The meeting will be open to the public. The purpose of the meeting is to acquaint the members of the Board, the Council, and the public with the proposed Incentive-Based Grazing Fee System and to elicit their comments and/or concerns. The main speaker for the meeting will be Duane Whitmer, the Cody Resource Area Manager and a member of the task force.

FOR FURTHER INFORMATION CONTACT: Ken Stinson, Worland District Range Conservationist, P.O. Box 119, 101 South 23d Street, Worland, Wyoming 82401. (307) 347-9871.

Dated: November 13, 1992.

Charles F. Wilkie,

Acting Worland District Manager.

[FR Doc. 92-28291 Filed 11-20-92; 8:45 am]

BILLING CODE 4310-22-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Commission has submitted a request for approval of questionnaires to the Office of Management and Budget for review.

PURPOSE OF INFORMATION COLLECTION: The forms are for use by the Commission in connection with investigation No. 332-327, Steel: Semiannual Monitoring Report, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

SUMMARY OF PROPOSALS:

(1) *Number of forms submitted:* Two.

(2) *Title of form:* Steel: Semiannual Monitoring Report-Questionnaires for U.S. Producers and Purchasers.

(3) *Type of request:* New.

(4) *Frequency of use:* Producer questionnaire, annual, through April 1995; Purchaser questionnaire, single data gathering, scheduled for 1994.

(5) *Description of respondents:* U.S. firms which produce or purchase carbon and alloy steel mill products.

(6) *Estimated annual number of respondents:* 160 (producer questionnaire), 150 (purchaser questionnaire).

(7) *Estimated total number of hours to complete the forms:* 7,110.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

ADDITIONAL INFORMATION OR COMMENT: Copies of the forms and supporting documents may be obtained from Nancy Fulcher (USITC, telephone no. (202) 205-3434). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503, Attention: Lin Liu, Desk Officer for the U.S. International Trade Commission (telephone no. 202-395-7340). All comments should be specific, indicating which part of the questionnaire is objectionable, describing the concern in detail, and including specific suggested revisions or language changes. Copies of any comments should be provided to Robert Rogowsky, Director, Office of Operations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TTD terminal (telephone no. 202-205-1810).

By order of the Commission.

Issued: November 16, 1992.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-28349 Filed 11-20-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. 40674]

National Motor Freight Traffic Association—Petition For Cancellation of Tariffs That Refer to the National Motor Freight Classification, But are Filed by or on Behalf of Non-Participating Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Tariff Reference Cancellation.

SUMMARY: Pursuant to 49 U.S.C. 10702(a) and 10762, unless by the pertinent dates the carriers subject to this show cause proceeding make lawful their use of the classification in accordance with 49 CFR 1312.4(d) and/or 1312.27(e), the Commission will direct (1) those carriers that publish their own tariffs to cancel from the cited tariffs all references to ICC NMF 100 series; and (2) those carriers that participate in tariffs of other carriers to instruct the publishers of the cited tariffs to cancel their participation in those tariffs.

DATES: The carriers that publish their own tariffs shall cancel all references in the cited tariffs to the ICC NMF 100 series if they have not complied with 49 CFR 1312.4(d) and/or 1312.27(e) by December 3, 1992. The carriers that participate in tariffs of other carriers shall instruct their publishing agents to cancel their participation in the cited tariffs if those carriers have not complied with 49 CFR 1312.4(d) and/or 1312.27(e) by December 23, 1992. This decision will be effective on November 23, 1992.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 927-5610. [TDD for hearing impaired: (202) 927-5721.] or William W. Pugh, National Motor Freight Association, 2200 Mill Road, Alexandria, VA 22314-4654.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write, to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Decided: November 10, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-28339 Filed 11-20-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32183]

Trinidad Railway, Inc.; Acquisition and Operation Exemption; the Colorado & Wyoming Railway Co.

The Trinidad Railway, Inc. (Trinidad), a noncarrier, has filed a notice of exemption to acquire and operate approximately 30 miles of rail line owned by Colorado & Wyoming Railway Company (CW). The line is located in Las Animas County, CO, and extends between milepost 0.0 at Jansen and milepost 30.0 at New Elk Mine, CO. Trinidad and CW's trustee in bankruptcy have entered into a purchase and sale agreement for the line of railroad and related facilities, equipment and appurtenances thereon. They propose to consummate the transaction on or about December 31, 1992. Trinidad certifies that upon consummation it will become a class III carrier.[1]

Any comments must be filed with the Commission and served on: John K. Maser III, 1275 K Street, NW., Suite 850, Washington, DC 20005.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: November 17, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-28347 Filed 11-20-92; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 1103X)]

Consolidated Rail Corp.; Abandonment Exemption In New Britain, Newington, and Elmwood, CT

Consolidated Rail Corporation (Conrail) filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon its New Britain Secondary line in New Britain, Newington, and Elmwood, CT. The segment extends approximately 5.9 miles between the point of connection with the Boston and Maine Corporation, approximately 130 feet west of Elm Street (approximately milepost 4.55), in New Britain, and the point of tangent for the switch connecting the New Britain Industrial Track with Amtrak's Hartford line, approximately 1,056 feet north of Flatbush Avenue (approximately milepost 10.45), in Elmwood.

Applicant has certified that:

(1) No local or overhead traffic has moved over the line for at least 2 years;

(2) No formal compliant filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line is pending with the Commission or any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and

(3) The requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 23, 1992 (unless stayed). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trails use/rail banking requests under 49 CFR 1152.29 [3] must be filed by December 3, 1992. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 14, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Robert S. Natalini, Consolidated Rail Corporation, Two Commerce Square, 2001 Market Street, P.O. Box 41416, Philadelphia, PA 19101-1416.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA) by November 30, 1992. Interested persons may obtain a copy of the EA by writing to SEE (Interstate Commerce Commission, Room 3219, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trails use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: November 17, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-28340 Filed 11-20-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32173]

Orange County Transportation Authority, et al.; Acquisition Exemption The Atchison, Topeka and Santa Fe Railway Company

Five county transportation agencies in the Los Angeles area (County Agencies) [1] have jointly filed a notice of exemption to acquire from The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) certain interests in property described in the footnote

[1] Trinidad says that it intends to grant overhead trackage rights to one or more class I carriers upon consummation of this transaction and that, if it does so, exemption notice(s) will be filed pursuant to 49 CFR 1180.2(d)(7).

[1] Ordinarily a stay will be routinely issued where an informed decision on environmental issues, whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation, cannot be made prior to the effective date of the notice of exemption. See Exemption of Out of Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental grounds is encouraged to file promptly so that the Commission may act on the request before the effective date.

[2] See Exempt. of Rail Abandonments—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trails use request as long as it retains jurisdiction to do so.

[1] The agencies are: Orange County Transportation Authority; Riverside County Transportation Commission; San Bernardino Associated Governments; San Diego Metropolitan Transit Development Board; and North San Diego County Transit Development Board.

below.[2] The exemption became effective on October 23, 1992. The parties intend to consummate the transaction in three stages: December 15, 1992; March 31, 1993; and June 15, 1993.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Pleadings must be filed with the Commission and served on: Charles A. Spitulnik, Hopkins & Sutter, Suite 700, 888 16th Street, NW., Washington, DC 20006.

The County Agencies allege that we lack jurisdiction over the transactions being exempted in this docket and say that they may subsequently file a motion to dismiss this notice and to vacate the exemptions granted therein. If we subsequently find that we lack jurisdiction over these transactions, we will enter a supplemental order vacating this exemption.

The notice filed in this docket also states that three of the County Agencies "have previously acquired interests in rail property." The County Agencies assert that we lack jurisdiction over the prior acquisitions, but the notice does not describe the property and the parties involved in them. The prior acquisitions raise an issue as to whether they are subject to this Commission's jurisdiction.

The County Agencies are also acquiring trackage rights to provide mass transit service over additional property.[3] If this acquisition of trackage rights is under our jurisdiction, it is exempt "incidental trackage rights" under 49 CFR 1150.31(a)(4). But we may lack jurisdiction over this acquisition of trackage rights because the provision of passenger service by the County Agencies may be exempt from our regulation. A similar jurisdictional issue has arisen in Finance Docket No. 32172 (Sub-No. 1) [4] and in the petition for reconsideration in the petition for reconsideration in Docket No. AB–12 (Sub-No. 139X), *et al., Southern Pacific Transportation Company—Abandonment Exemption—Los Angeles County, CA*, 8 I.C.C.2d 495 (1992).

The notice is this proceeding also mentions two easements over Santa Fe track for the provision of passenger service by the County Agencies.[5] From the description of these interests in the notice, we cannot determine whether the San Bernardino-Pasadena-Cajon Subdivisions easement, grants (1) a right to operate over existing Santa Fe track or (2) permission to construct commuter track over surplus Santa Fe right-of-way. These easements raise jurisdictional issues which the Commission may address separately.

Dated: November 17, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland,

Secretary.

[FR Doc. 92–28341 Filed 11–20–92; 8:45 am]

BILLING CODE 7035–01–M

[2] The property consists of: The Pasadena Subdivision between milepost 82.60 and milepost 140.05 at Mission Tower; the San Diego Subdivision between milepost 267.61 in San Diego and milepost 165.55 at Fullerton, including the Fallbrook Yard but excluding interchange tracks at Anaheim and Santa Ana and the Tustin Spur Track; the Olive Subdivision from milepost 14 at Atwood to milepost 5.37 at Olive Junction; the Escondido Subdivision between milepost .10 at Escondido junction and milepost 21.31 in Escondido; the San Jacinto Subdivision between milepost .34 at Highgrove and milepost 38.33 at San Jacinto; and the Redlands Subdivision between milepost .05 at San Bernardino and milepost 13.40 at or near Mentone. This notice does not encompass any portion of those lines within Los Angeles County. Each county will acquire the interests being conveyed that are within the jurisdictional limits of that county. Concurrently with this notice, the Los Angeles County Transportation Commission filed a petition in Finance Docket No. 32172 for exemption from 49 U.S.C. 11343 to acquire lines in Los Angeles County.

[3] This property consists of—

Pasadena-Redlands Subdivision: Between Pasadena Subdivision milepost 82.60 and a connection with the Redlands Subdivision at milepost .05, all in San Bernardino County;

San Bernardino Shops: The line segments between (a) the Pasadena-Redlands trackage rights and the San Bernardino Shops and (b) between the San Bernardino-Pasadena-Cajon Subdivisions easement (described in footnote 7, below) and the San Bernardino Shops, all in San Bernardino County;

San Diego Subdivision: Between San Diego Subdivision milepost 267.61 and milepost 268.74, all in San Diego County.

[4] *See* Finance Docket No. 32172 (Sub-No. 1), *Los Angeles County Transportation Commission—Trackage Rights—The Atchison, Topeka and Santa Fe Railway Company*, notice of exemption filed October 16, 1992.

[5] The easement trackage consists of—

The Pasadena-Redlands Subdivisions: 40 feet wide, between Pasadena Subdivision milepost 82.60 and a connection with the Redlands Subdivision on the south side of the main line, all in San Bernardino county, at a precise location to be determined by the parties.

The San Bernardino-Pasadena-Cajon Subdivisions. Between: (a) San Bernardino Subdivision mileposts 160.3 and 30.6 in Orange County, mileposts 30.6 and 5.7 in Riverside County, and mileposts 5.7 and 0.34 in San Bernardino County; (b) Pasadena Subdivision milepost 81.56 and milepost 81.32 in San Bernardino County; and (c) Cajon Subdivision milepost 81.32 and milepost 81.19.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on November 10, 1992, a proposed Consent Decree in *United States* v. *Mobil Oil Corporation*, Civil Action No. 87–0627 LKK (JFM), was lodged with the United States District Court for the Eastern District of California. The Complaint in this action was filed on April 30, 1992, by the United States against Mobil Oil Corporation ("Mobil"), pursuant to section 113(b) of the Act, 42 U.S.C. 7413(b). The Complaint sought injunctive relief and assessment of civil penalties. Specifically, the Complaint concerned Mobil's polystyrene manufacturing facility in Bakersfield, California (the "Bakersfield Facility").

In this action, the United States sought to prove that from November 10, 1983, until December 22, 1985, the Bakersfield Facility emitted volatile organic compounds ("VOCs") in an amount in excess of the amount allowable under the federally enforceable limit established pursuant to California's State Implementation Plan ("SIP").

The proposed consent decree requires the payment of a $950,000 civil penalty, but because Mobil altered its manufacturing process to comply with the requirements of the California SIP on or about December 22, 1985, the proposed Consent Decree does not require injunctive relief.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044. Comments should refer to *United States* v. *Mobil Oil Corporation*, Civil Action No. 87–0627 LKK (JFM), D.J. Ref. No. 90–5–2–1–1020.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of California, 650 Capitol Mall, Sacramento, California, 95814; Office of Regional Counsel, Environmental Protection Agency, 75 Hawthorn St., San Francisco, California; and at the Consent Decree Library, 601 Pennsylvania Avenue Building, NW., Washington, DC, 20004, phone number (202) 347–2072. A copy of the proposed

Consent Decree may be obtained in person or by mail from the Consent Decree Library.

In requesting a copy, please enclose a check in the amount of $1.75 (25 cents per page reproduction cost) payable to the "Consent Decree Library."

Vicki A. O'Meara,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-28309 Filed 11-20-92; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration

By Notice dated September 30, 1992, and published in the **Fedeal Register** on October 16, 1992, (57 FR 47487), CIBA-GEIGY Corporation, Pharmaceuticals Division, Regulatory Compliance, 558 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration to be registered as bulk manufacturer of Methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application for registration submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: November 16, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-28381 Filed 11-20-92; 8:45 am]

BILLING CODE 4410-09-M

Greenbelt Professional Pharmacy; Revocation of Registration

On July 23, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Greenbelt Professional Pharmacy, c/o Keith G. Klingenstein, 9115 49th Place, College Park, MD 20740. The Order to Show Cause proposed to revoke the pharmacy's DEA Certificate of Registration, AG2662131, issued at 6201 Greenbelt Road, College Park, MD 20740, under 21 U.S.C. 824(a)(3) and 824(a)(4), and deny any pending applications for renewal of its registration as a pharmacy under 21 U.S.C. 823(f). The Order to Show Cause alleged that, on or about November 15, 1990, the Maryland State Board of Pharmacy summarily suspended Greenbelt Professional Pharmacy's permit to operate as a pharmacy, and as a result, the pharmacy is no longer authorized by state law to handle controlled substances.

The Order to Show Cause was sent to Greenbelt Professional Pharmacy by registered mail. More than thirty days have have passed since the Order to Show Cause was received by the pharmacy and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Greenbelt Professional Pharmacy is deemed to have waived its opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that Greenbelt Professional Pharmacy's pharmacy permit was summarily suspended by the Maryland State Board of Pharmacy, effective November 15, 1990. This suspension was based upon the October 12, 1990, arrest of the pharmacy's owner, Keith Klingenstein, on the charge of unlawful distribution of controlled substances, to wit: Mr. Klingenstein is alleged to have unlawfully dispensed Tylenol with codeine (Schedule III), glutethimide (then a Schedule III, but now a Schedule II) (a combination that produces an effect similar to heroin), in addition to Penicillin, to undercover Maryland State police officers, in exchange for money. The suspension remains in effect, and consequently, Greenbelt Professional Pharmacy is currently not authorized to handle controlled substances in the State of Maryland.

The Administrator concludes that the DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances. See 21 U.S.C. 823(f). The Administrator and his predecessors have consistently so held. See *Howard J. Reuben, M.D.*, 52 FR 8375 (1987); *Ramon Pla, M.D.*, Docket No. 86-54 51 FR 41168 (1968); *Dale D. Shahan, D.D.S.*, Docket No. 85-57, 51 FR 23481 (1986); and cases cited therein. Since Greenbelt Professional Pharmacy lacks state authorization to handle controlled substances, it is not necessary for the Administrator to decide the issue of whether the pharmacy's continued registration is inconsistent with the public interest at this time.

No evidence of explanation or mitigating circumstances has been offered by Greenbelt Professional Pharmacy. Therefore, the Administrator concludes that the pharmacy's DEA Certificate of Registration must be revoked.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the DEA Certificate Registration, AG2662131, previously issued to Greenbelt Professional Pharmacy, be and it hereby is, revoked, and any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective December 23, 1992.

Dated: November 16, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-28303 Filed 11-20-92; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on September 18, 1992, North Pacific Trading Company, 1505 SE Gideon Street, Portland, Oregon 97202, made application to the Drug Enforcement Administration to be registered as an importer of Marihuana (7370) a basic class of controlled substance in Schedule I. This application is exclusively for the importation of marihuana seed which will be rendered non-viable and used as bird seed.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in

accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 23, 1992.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: November 16, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration

[FR Doc. 92–28380 Filed 11–20–92; 8:45 am]

BILLING CODE 4410–09–M

Ludmila M. Slutsky, M.D.; Revocation of Registration

On September 9, 1992, the Deputy Assistant Administrator of the Drug Enforcement Administration (DEA), Office of Diversion Control issued an Order to Show Cause to Ludmila M Slutsky, M.D., c/o Master Care Medical Clinic, 625 E. Pershing Road, Chicago, IL 60609. The Order to Show Cause alleged, inter alia, that Dr. Slutsky was not authorized to handle controlled substances under the laws of the State of Illinois and proposed to revoke her DEA Certificate of Registration, BS0291839, and to deny any pending applications for renewal of such registration.

The Order to Show Cause was received by Dr. Slutsky's attorney on September 17, 1992, and at her place of employment on September 29, 1992. More than thirty days have elapsed since the Order to Show Cause was received by Dr. Slutsky and the Drug Enforcement Administration has received no response thereto. Therefore, pursuant to the provisions of 21 CFR 1301.54(a) and 1301.54(d), Dr. Slutsky is deemed to have waived her opportunity for a hearing on any matters of law and fact involved herein. Accordingly, the Administrator now issues his final order in this matter without a hearing and based upon the investigative file. 21 CFR 1301.57.

The Administrator finds that during September, October and November 1988, and evidentiary hearing was held before the Illinois Medical Disciplinary Board. The Board concluded that Dr. Slutsky's prescribing of controlled substances was inappropriate, that it lacked adequate examination and patient evaluation, that it demonstrated an inability or incapacity to practice as required by law, that it constituted unprofessional conduct and lack of good faith, and that it resulted in a lack of effective controls to ensure that controlled substances remained in legitimate channels. On September 7, 1989, following the administrative law judge's recommendation, the Director of the Illinois Department of Professional Regulation indefinitely suspended Dr. Slutsky's licenses to practice medicine and to handle controlled substances in the State of Illinois. On January 8, 1991, the Director restored Dr. Slutsky's license to practice medicine, subject to a five-year term of probation and other conditions. At the same time, the Director ordered that Dr. Slutsky's controlled substance license remain indefinitely suspended. On June 23, 1992, following the recommendation of a hearing officer, the Director denied Dr. Slutsky's petition for restoration of her controlled substances license. Accordingly, the Administrator concludes that Dr. Slutsky is without lawful authority to prescribe, dispense, administer or otherwise handle controlled substances under the laws of the State of Illinois.

Pursuant to 21 U.S.C. 824(a), the Administrator may revoke a registration if he finds that the registrant is no longer authorized under state law to dispense or otherwise handle controlled substances. Additionally, 21 U.S.C. 823(f) provides for the registration of a practitioner if that person is authorized to dispense controlled substances under the laws of the state in which he practices. Accordingly, there is a lawful basis for the revocation of Dr. Slutsky's registration and for the denial of any pending applications for renewal thereof.

This agency has consistently held that the lack of a state license requires the revocation of the registrant's DEA Certificate of Registration. See *Lawrence R. Alexander, M.D.*, Docket No. 92–22, 57 FR 22256 (1992); *Bobby Watts, M.D.*, Docket No. 87–71, 53 FR 11919 (1988); *Wingfield Drugs, Inc.*, Docket No. 87–13, 52 FR 27070 (1987), and cases cited therein. There having been no evidence submitted on behalf of the registrant, the Administrator concludes that Dr. Slutsky's registration must be revoked.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, BS0291839, previously issued to Ludmila M. Slutsky M.D., be, and it hereby is, revoked. The Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective November 23, 1992.

Dated: November 16, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92–28304 Filed 11–20–92; 8:45 am]

BILLING CODE 4410–09–M

James M. Stanton, M.D.; Revocation of Registration

On July 15, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to James M. Stanton, M.D. at 1201 Bering Drive, Houston, TX proposing to revoke his DEA Certificate of Registration, BS2494209, and to deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f). The proposed action was predicated on Dr. Stanton's lack of authorization to handle controlled substances in the State of Texas.

The Order to Show Cause was sent to Dr. Stanton by registered mail, return receipt requested. The receipt indicates that the Order to Show Cause was received on July 25, 1992, by Dr. Stanton. More than thirty days have passed since the Order to Show Cause was received and the Drug Enforcement Administration has received no response thereto. Therefore, the Administrator concludes that Dr. Stanton has waived his opportunity for a hearing on the issue raised in the Order to Show Cause and, pursuant to 21 CFR 1301.54(d) and 1301.54(e), enters this final order based on the information contained in the DEA investigative file. 21 CFR 1301.57.

The Administrator finds that the Texas Board of Medical Examiners charged Dr. Stanton with violation of Section 3.08, Subsections (3), (4), 4(A), 4(D) and 4(F) of Article 4495b, Texas Revised Civil Statutes. The matter was heard in public hearing on April 29, 1991. By Order dated October 10, 1991, the

Board found, inter alia, that Dr. Stanton issued approximately 201 prescriptions of Empirin with codeine and Tylenol with codeine, totalling 6,576 dosage units, in the name of his mother, during the period of January 4, 1989 to November 29, 1990. The controlled substances were not intended for his mother, nor needed in her treatment. The controlled substances were for Dr. Stanton's personal use.

The Board further found that the controlled substances prescribed and administered by Dr. Stanton were not prescribed or administered for a valid medical reason. The Board concluded that the public was put in danger by Dr. Stanton's self-administration of controlled substances and that Dr. Stanton engaged in unprofessional or dishonorable conduct that was likely to deceive or defraud the public or injure the public. Based in part on these findings, the Board revoked Dr.Stanton's license to practice medicine on October 10, 1991. Consequently, Dr. Stanton is without authority to handle controlled substances in the State of Texas.

The Administrator concludes that the DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Bobby Watts, M.D.*, 53 FR 11919 (1988); *Wingfield Drugs, Inc.*, 52 FR 27070 (1987); *Robert F. Witek, D.D.S.*, 52 FR 47770 (1987); and cases cited therein.

Having considered the facts and circumstances in this matter, the Administrator concludes that Dr. Stanton's DEA Certificate of Registration should be revoked due to his lack of authorization to handle controlled substances in the State of Texas. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, BS2494209, previously issued to James M. Stanton, M.D., be, and it hereby is, revoked. The Administrator further orders that all pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective December 23, 1992.

Dated: November 16, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-28302 Filed 11-20-92; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on October 22, 1992, Toxi-Lab, Inc., 2 Goodyear, Irvine, California 92718, requested by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Benzoylecgonine (9180)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than 30 days from publication.

Dated: November 16, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-28378 Filed 11-20-92; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on October 16, 1992, Upjohn Company, 7171 Portage Road, Kalamazoo, Michigan 49001, made written request to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule I controlled substance 2,5-Dimethoxyamphetamine (7396).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than 30 days from publication.

Dated: November 16, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-28379 Filed 11-20-92; 8:45 am]

BILLION CODE 4410-09-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

John F. Kennedy Assassination Records

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice to Federal agencies.

SUMMARY: NARA requests all agencies having any records relating to the assassination of John Kennedy to provide the following information. Supply by fax (see Address Block): Name, Mailing Address, Phone Number, Fax Number, of the employee responsible for coordinating the review of records required by the President John F. Kennedy Assassination Records Collection Act (Pub. L. 102-526, 106 Stat. 3443). NARA must provide these agencies with the data necessary for the agencies to implement the act by December 10, 1992.

DATES: Please provide the information by November 30, 1992.

ADDRESSES: Access Staff (NN-F), National Archives and Records Administration, (202) 219-1543 (Fax Number).

FOR FURTHER INFORMATION CONTACT: Mary Ronan, Access Staff, National Archives and Records Administration, 202-501-5380.

Dated: November 19, 1992.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 92-28512 Filed 11-20-92; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92-75]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Aviation Safety Reporting System Subcommittee.

DATES: December 10, 1992, 9 a.m. to 5 p.m.

ADDRESSES: Atlantic Research Corp., Suite 700, 600 Maryland Avenue, SW., Washington DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. William Reynard, Office of Aviation Safety Reporting System, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, (415) 604-6467.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aviation Safety Reporting System Program Status.
—Operations Overview.
—Revised Reporting Forms.
—Make/Model Deidentification.
—Secondary Database Update.
—Report on the International Reporting Systems Meeting.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Dated: November 16, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-28322 Filed 11-20-92; 8:45 am]

BILLING CODE 7510-01-M

[Notice 92-74]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee, Solar System Exploration Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Aeronautics and Space Administration announces a forthcoming meeting of the NAC, Space Science and Applications Advisory Committee, Solar System Exploration Subcommittee.

DATES: December 1, 1992, 9 a.m. to 5 p.m.; December 2, 1992, 8:30 a.m. to 5:30 p.m.; December 3, 1992, 8:30 a.m. to 5 p.m.; and December 4, 1992, 8:30 a.m. to 11 a.m.

ADDRESSES: Embassy Suites Hotel, 4550 La Jolla Village Drive, San Diego, CA 92122.

FOR FURTHER INFORMATION CONTACT: Dr. Carl B. Pilcher, Code SL, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358-0290.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Issues Related to the Office of Aeronautics and Space Technology, and Office of Exploration.
—Towards Other Planet Systems.
—Mars Program.
—Discovery Program.
—Lunar Program.
—Small Bodies Program.
—Outer Planets.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: November 16, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-28321 Filed 11-20-92; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB Review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. *Type of submission, new, revised, or extension:* New.

2. *The title of the information collection:* "Solicitation of Information on Actual Decommissioning Activities".

3. *The form number if applicable:* Not applicable.

4. *How often is the collection required:* This is a voluntary one-time solicitation of information by the NRC.

5. *Who will be required or asked to report:* Previous and current material licensees—licensed under the 10 CFR parts 30, 40, 70, and 72 as well as Agreement State licensees who are likely to have information based on a screening by the NRC of their licensee docket files.

6. *An estimate of the number of respondents:* 300 for initial contact (phone conversation); 30 for follow-up through a site visit by the NRC contractor.

7. *An estimate of the total number of hours needed to complete the requirement or request:* 290.

8. *An indication of whether § 3504(h), Public Law 96-511 applies:* Not Applicable.

9. *Abstract:* The Nuclear Regulatory Commission is soliciting information on the actual costs for decommissioning nuclear facilities covered under 10 CFR parts 30, 40, 70, and 72 (material licensees) from previous and current NRC and Agreement State licensees. This information is needed to make a more accurate, realistic, and potentially less conservative assessment of decommissioning costs than those presented in the current regulation for decommissioning funding certification. This information also may be used as a basis for revising the current requirements and for determining if the current financial assurance burdens on the licensees can be reduced.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs, (3150-), NEOB-3019, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395-3084. The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 13th day of November 1992.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 92-28355 Filed 11-20-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-267]

Public Service Company of Colorado, Fort St. Vrain Nuclear Generating Station; Notice of Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order authorizing the decommissioning of the Fort St. Vrain Nuclear Generating Station (FSV) that is licensed to Public Service Company of Colorado (PSC). The Commission is also considering the issuance of an amendment to revise the Technical Specifications to be consistent with the Decommissioning Plan.

Identification of Proposed Action

FSV has been shut down since August 18, 1988, and all spent fuel has been removed from the reactor protected area and transferred to an Independent Spent Fuel Storage Installation (ISFSI) that is separately licensed to PSC under 10 CFR part 72. Decommissioning of FSV includes the dismantlement, decontamination and disposal of radioactively activated and contaminated material and components produced by FSV operations. Substantial portions of the plant will be dismantled and removed. However, the reactor building, turbine building, and other structures that are not radioactive above limits acceptable for unrestricted access will remain. Following completion of dismantling and decontamination activities, PSC will conduct extensive radiation surveys to verify that the plant and the FSV site meet NRC release criteria and can be released to unrestricted access. The FSV part 50 license will be terminated following satisfactory completion of decommissioning actions by PSC and verification surveys by the NRC. Approval of the Decommissioning Plan will allow PSC to dismantle and decontaminate FSV in accordance with the approved plan.

Environmental Impacts

The NRC staff reviewed the proposed Decommissioning Plan and the related Environmental Report Supplement with respect to 10 CFR 51.53(b) and to document its review prepared an Environmental Assessment. Decommissioning FSV in accordance with the plan will allow termination of License No. DPR-34 and the continued use of the site for electric power production using the FSV turbine with a natural gas fired boiler.

Finding of No Significant Impact

The staff has reviewed the proposed decommissioning relative to the requirements set forth in 10 CFR part 51. Based upon the Environmental Assessment, the staff concluded that there are no significant environmental impacts associated with the proposed decommissioning and that the proposed decommissioning will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed decommissioning of FSV.

For further details with respect to this action, see: (1) The licensee's application for authorization to decommission FSV, dated November 5, 1990, as revised December 17 and 21, 1990, January 14, 1991, April 15 and 26, 1991, May 15, 1991, June 6 and 17, 1991, July 1, 1991, August 28 and 30, 1991, November 15, 1991, December 6, 1991, January 9, 1992, March 19, 1992, April 17, 1992, and September 25, 1992; (2) the licensee's Environmental Report Supplement dated July 10, 1991, as revised March 20, 1992, April 30, 1992, June 24, 1992, and September 1 and 18, 1992; (3) Amendment No. 85 to License No. DPR-34; (4) the Commission's related Safety Evaluation; and (5) the Commission's Environmental Assessment and Finding of No Significant Impact. These documents are available for inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Greeley Public Library, City Complex Building, Greeley, Colorado 80631.

Dated at Rockville, Maryland, this 17th day of November 1992.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation.

[FR Doc. 92-28348 Filed 11-20-92; 8:45 am]

BILLING CODE 7590-01-M

Meeting of Advanced Instrumentation & Control and Human Factors Subcommittee; Meeting

The NSRRC Advanced Instrumentation & Control and Human Factors Subcommittee will hold a meeting on December 9 and 10, 1992, in the Montrose Room Crowne Plaza Holiday Inn, 1750 Rockville Pike, Rockville, MD 20852.

The entire meeting will be open to public attendance

The agenda for the subject meeting will be as follows:

Wednesday, December 9, 1992, 10 a.m. to 6 p.m

The subcommittee will review the advanced digital instrumentation and control research program and the human-system interface research program, including updates on the overall programs and specific projects. The review will also include the risk impact of the new technologies involved.

Thursday, December 10, 1992, 8 a.m. to Approximately 3 p.m.

The subcommittee will hold an executive session concerning preparation of the subcommittee report to the Committee. Follow-up discussions of matters reviewed on December 9 may be held, if necessary.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the subcommittee. Transcripts or recordings of the meeting will not be made. Questions may be asked only by members of the subcommittee and the staff. Persons desiring to make oral statements should notify the NRC staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the subcommittee, along with other committee members or staff who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions,whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to Mr. George Sege (telephone 301/492-3904) between 8 a.m. and 4:30 p.m. (E.S.T.). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the

scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: November 17, 1992.

George Sege,

Technical Assistant to the Director, Office of Nuclear Regulatory Research.

[FR Doc. 92-28350 Filed 11-20-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-9 and NPF-17 issued to Duke Power Company (the licensee) for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The proposed amendments would revise the Technical Specifications (TSs) for the liquid effluent release rate limits, the gaseous release rate limits and to make TS wording changes in response to the recent revisions in 10 CFR part 20.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed revisions to the liquid and gaseous release rate limits and the relocation of the old 10 CFR 20.106 requirements to the new 10 CFR 20.1302 will not involve a significant increase in the probability or consequences of an accident previously evaluated because there will be no change in the types and amounts of effluents that will be released, nor will there be an increase in individual or cumulative occupational radiation exposures.

The proposed revisions will not create the possibility of a new or different kind of accident from any previously evaluated because the revisions are administrative and will not change the types and amounts of effluent that will be released.

The proposed revisions will not reduce a margin of safety because the annual dose of 500 mrem, upon which the concentrations in the old 10 CFR part 20, appendix B, Table II, Columns 1 and 2, are based, is a factor of 10 higher than the annual dose of 50 mrem, upon which the concentrations in the new 10 CFR part 20, appendix B, Table 2, Columns 1 and 2, are based. Compliance with the limits of the new 10 CFR 20.1301 will be demonstrated by operating within the limits of 10 CFR part 50, appendix I and 40 CFR part 190.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 23, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for an hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert

opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to David B. Matthews: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 5, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Rockville, Maryland, this 17th day of November 1992.

For the Nuclear Regulatory Commission.

Timothy A. Reed,

Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–28351 Filed 11–20–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–269, 50–270, and 50–287]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–38, DPR–47, and DPR–55 issued to Duke Power Company (the licensee) for operation of the Oconee Nuclear Station, Units 1, 2, and 3, located in Oconee County, South Carolina.

The proposed amendments would revise the Technical Specifications (TSs) for the liquid effluent release rate limits, the gaseous release rate limits and to make TS wording changes in response to the recent revisions in 10 CFR part 20.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed revisions to the liquid and gaseous release rate limits and the relocation of the old 10 CFR 20.106 requirements to the new 10 CFR 20.1302 will not involve a significant increase in the probability or consequences of an accident previously evaluated because there will be no change in the types and amounts of effluents that will be released, nor will there be an increase in individual or cumulative occupational radiation exposures.

The proposed revisions will not create the possibility of a new or different kind of accident from any previously evaluated because the revisions are administrative and will not change the types and amounts of effluent that will be released.

The proposed revisions will not reduce a margin of safety because the annual dose of 500 mrem, upon which the concentrations in the old 10 CFR part 20, appendix B, Table II,

Columns 1 and 2, are based, is a factor of 10 higher than the annual dose of 50 mrem, upon which the concentrations in the new 10 CFR part 20, appendix B, Table 2, Columns 1 and 2, are based. Compliance with the limits of the new 10 CFR 20.1301 will be demonstrated by operating within the limits of 10 CFR part 50, appendix I and 40 CFR part 190.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 23, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested

that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to David B. Matthews: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 5, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691.

Dated at Rockville, Maryland, this 17th day of November 1992.

For the Nuclear Regulatory Commission.

L.A. Wiens,

Project Manager, Project Directorate II-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-28352 Filed 11-20-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-413 and 50-414]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating license Nos. NPF-35 and NPF-52 issued to the Duke Power Company (the Licensee) for operation of the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina.

The proposed amendments would revise the Technical Specifications (TSs) for the liquid effluent release rate limits, the gaseous release rate limits, and to make TS wording changes in response to the recent revisions in 10 CFR part 20.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed revisions to the liquid and gaseous release rate limits and the relocation of the old 10 CFR 20.106 requirements to the new 10 CFR 20.1302 will not involve a significant increase in the probability or consequences of an accident previously evaluated because there will be no change in the types and amounts of effluents that will be released, nor will there be an increase in individual or cumulative occupational radiation exposures.

The proposed revisions will not create the possibility of a new or different kind of accident from any previously evaluated because the revisions are administrative and will not change the types and amounts of effluent that will be released.

The proposed revisions will not reduce a margin of safety because the annual dose of 500 mrem, upon which the concentrations in the old 10 CFR part 20, appendix B, Table II, Columns 1 and 2, are based, is a factor of 10 higher than the annual dose of 50 mrem, upon which the concentrations in the new 10 CFR part 20, appendix B, Table 2, Columns 1 and 2, are based. Compliance with the limits of the new 10 CFR 20.1301 will be demonstrated by operating within the limits of 10 CFR part 50, appendix I and 40 CFR part 190.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 23, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the York County Library, 138 East Black Street, Rock Hill, South Carolina 29730. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and

how that interest may be affected by the result of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to David B. Matthews: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated November 5, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Dated at Rockville, Maryland, this 17th day of November 1992.

For the Nuclear Regulatory Commission.

Robert E. Martin,

Senior Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–28353 Filed 11–20–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–245]

Northeast Nuclear Energy Co.; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–21 issued to Northeast Nuclear Energy Company for operation of Millstone Nuclear Power Station, Unit 1, located in New London County, Connecticut.

The proposed amendment to Technical Specification (TS) Surveillance Requirement 4.7.A.3.a.2 would provide an alternative to the currently required increase in appendix J, Type A test frequency incurred after the failure of two successive Integrated Leak Rate Tests (ILRTs). This change would only apply to the current condition of two consecutive Type A test failures (cycle 11 and cycle 13 refueling outages) vice a permanent

change to the TS Surveillance Requirements.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed change to the Technical Specifications in accordance with 10 CFR 50.92 and has concluded that it does not involve a significant hazards consideration in that the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

This change allows the submittal of a [Corrective Action Plan] CAP as an exemption to appendix J requirements for NRC Staff review in lieu of more frequent Type A tests. The approval of a CAP as an alternative, will adequately maintain containment leakage surveillance requirements and overall containment integrity. Therefore, this change cannot increase the probability or consequences of an accident.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

It has been determined that a new or different kind of accident will not be possible due to this change. Since there are no changes in the way the plant is operated, the potential for an unanalyzed accident is not created. No new failure modes are introduced.

3. Involve a significant reduction in a margin of safety.

Plant Technical Specifications including an NRC-approved CAP ensure that the containment's margin of safety is maintained. The CAP, for penetrations determined to be the cause of the failure of the "As-Found" ILRTs, will provide added assurance that containment integrity will be maintained without the need for additional ILRTs. Moreover, before NNECO may utilize the proposed alternative, its CAP must be formally approved by the NRC Staff as an exemption to appendix J, pursuant to 10 CFR 50.12. Thus, the addition of a CAP, as an alternative to increased Type A test frequency, will not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 28, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to fill such a

supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz: Petitioner's Name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103–3499, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 29, 1992, as supplemented by letter dated November 6, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Dated at Rockville, Maryland, this 13th day of November 1992.

For the Nuclear Regulatory Commission.

Alan B. Wang,

Acting Project Manager, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–28354 Filed 11–20–92; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF NATIONAL DRUG CONTROL POLICY

President's Drug Advisory Council; Meeting

AGENCY: President's Drug Advisory Council; Office of National Drug Control Policy.

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. appendix), of a meeting of the President's Drug Advisory Council.

TIME AND DATE: December 10, 1992, from 3:30 to 5:30 p.m.

PLACE: The meeting will be held in the Military Room of the Washington Hilton Hotel and Towers, 1919 Connecticut Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Rowena Morris, Special Assistant, President's Drug Advisory Council, Executive Office of the President, Washington, DC 20500, (202) 466–3100.

SUPPLEMENTARY INFORMATION: The President's Drug Advisory Council was created by Executive Order 12696 of November 13, 1989 (54 FR 47507, November 15, 1989), with the general purpose of advising the President and the Director of the Office of National Drug Control Policy on the development, dissemination, explanation and promotion of national drug control policy.

At the session on December 10, the Council will discuss the National Leadership Forum, which will be held December 10–12, 1992. The Council will also review the progress of its national drug-free workplace initiative, known as "Drugs Don't Work".

Terence J. Pell,

Chief of Staff, Office of National Drug Control Policy.

[FR Doc. 92–28413 Filed 11–20–92; 8:45 am]

BILLING CODE 3180–02–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31464; File No. SR–NASD–92–33]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Enforcement of Arbitrators' Orders Under the NASD Code of Arbitration Procedure

November 16, 1992.

On August 1, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder.[2] The proposal amends the NASD Code of Arbitration Procedure ("Code") to emphasize the authority of arbitrators to enforce orders they issue in the course of an arbitration proceeding.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

Notice of the proposed rule change, together with its terms of substance, was provided by the issuance of a Commission release (Securities Exchange Act Release No. 31284, October 2, 1992) and by publication in the **Federal Register** (57 FR 46610, October 9, 1992). No comments were received on the proposal. This order approves the proposed rule change.

The rule change approved herein amends section 35 of Part III of the Code [3] to emphasize that arbitrators have the authority to enforce orders that they may issue in the course of an arbitration proceeding.[4] The rule change states that arbitrators may take appropriate action to obtain compliance with their rulings, and that such action is final and binding on the parties. The rule change comes as a result of situations in which parties have not complied with orders issued by arbitrators, and in which no specific provision of the Code could be cited to enforce compliance. The rule change highlights existing arbitral authority to issue sanctions, and includes an addition to the Arbitrator's Manual, which suggests the types of sanctions that arbitrators may issue.

The rule change and the addition to the Arbitrator's Manual were adopted by the Securities Industry Conference on Arbitration ("SICA") at its meeting on January 7, 1992. In adopting the change to the Code, SICA acknowledged that, although arbitrators have inherent authority to frame sanctions for non-compliance with their orders, often they may not frame such sanctions because they are unaware of the extent of their authority. In addition, because no Code provision refers specifically to the enforcement of orders, SICA believed that parties might also be unaware that they can request arbitrators to issue sanctions for non-compliance with their orders. SICA determined that the amendment to the Code and the related addition to the Arbitrator's Manual would remedy these problems, and recommended that the self-regulatory organizations make such changes to their arbitration rules.

The Commission finds that the rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A(b)(6) of the Act.[5] In pertinent part, section 15A(b)(6) requires that the rules of a national securities association be designed to "promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing and settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest." The Commission believes that the rule change will enforce compliance with arbitrators' orders, thereby facilitating the arbitration process, which is in the public interest. For this reason, and for the reasons stated above, the Commission believes that the rule change satisfies the requirements of section 15A(b)(6) of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the instant rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-28310 Filed 11-20-92; 8:45 am]

BILLING CODE 8010-01-M

[3] *NASD Securities Dealers Manual,* Part III, section 35 of the Code of Arbitration Procedure, CCH ¶ 3735.

[4] The authority addressed in the proposed rule is limited to enforcement of rulings issued in the course of an arbitration proceeding, and does not extend to the enforcement of the final award issued by an arbitrator. Therefore, all references herein, and in the proposed rule, to arbitrators' "rulings" or "others" refer to rulings or orders issued in the course of an arbitration proceeding.

[5] 15 U.S.C. 78*o*-3 (1988).

[6] 17 CFR 200.30-3(a)(12) (1992).

[Release No. IC-19099; 812-7816]

Previously Owned Partnerships Income Fund-92, et al.

November 16, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Previously Owned Partnerships Income Fund-92 (the "Partnership"), and MacKenzie Patterson Advisors, Inc. ("Corporate General Partner").

RELEVANT ACT SECTIONS: Conditional order requested under section 6(c) exempting the Partnership and certain of its general and limited partners from sections 2(a)(19) and 2(a)(3)(D).

SUMMARY OF APPLICATION: Applicants seeks a conditional order determining that (a) the Partnership and certain of its general partners would not be deemed "interested persons" of the Partnership and the other general partners due to their status as partners, and (b) limited partners of the Partnership who own less than five percent of the voting interests in the Partnership, and who are not affiliated persons by virtue of any other provision of the Act, will not be deemed to be "affiliated persons" of the Partnership or any other partners solely by virtue of their limited partner status.

FILING DATES: The application was filed on November 1, 1991, and amended on April 6, 1992, June 1, 1992, and November 2, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 11, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 3685 Mount Diablo Boulevard, Suite 150, Lafayette, CA 94549.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Nancy M. Pappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The partnership is a California limited partnership that registered as a closed-end, non-diversified investment company under the Act. On September 27, 1988, the partnership filed with the SEC a notification of registration on Form N-8A pursuant to section 8(a) of the Act, and a registration statement on Form N-2 under the Act and the Securities Act of 1933. On September 24, 1992, the Partnership filed with the SEC pre-effective amendment No. 2 to its registration statement on Form N-2.

2. The Corporate General Partner, a registered investment adviser under the

Investment Advisers Act of 1940 (the "Advisers Act"), will be responsible for identifying potential investments and selecting the investments to be made by the partnership and will perform other functions normally carried out by an investment adviser. The Corporate General Partner will receive an investment advisory fee payment monthly at an annual rate of 1.5% of the difference on the last of each quarter between (a) the aggregate capital contribution of the limited partners (the "Limited Partners") and (b) the cost of any investment by the partnership that has been liquidated if the proceeds have been distributed to the partners.

3. The Partnership intends to offer up to 10,000 units priced at $500 each with a minimum investment of $5,000. The maximum offering of units will be $5,000,000, which may be increased to $20,000,000 at the discretion of the managing general partner, C.E. Patterson (the "Managing General Partner"). Units may be purchased only by investors who meet certain minimum net worth requirements as described in the Partnership's prospectus. MacKenzie Patterson Securities Corp., a division of Patterson Financial Services. Inc., will act as the placement agent for the units on a "best efforts" basis.

4. The Partnership seeks to maximize total return by investing at least 65% of its assets in public real estate limited partnerships that have been operating for at least one year. The Partnership also may invest in master limited partnerships and real estate investment trusts that have been operating for at least one year.

5. The Partnership is structured as a partnership, rather than as a corporation or business trust, to afford the Partnership flexibility to meet its investment objective, while enabling the Partnership and its partners to receive "pass through" tax treatment typically available to registered investment companies and their shareholders. A registered investment company organized as a corporation or business trust typically seeks to qualify as a regulated investment company ("RIC") under subchapter M of the Internal Revenue Code of 1986, as amended (the "Code"). A registered investment company qualified as a RIC is not liable for federal income taxes to the extent that it distributes its earnings in accordance with certain provisions of the Code, however, its shareholders are taxed on the distributions they receive. This "pass through" tax treatment is available only if the registered investment company meets certain requirements, which, if applicable to the Partnership, could limit the Partnership's proposed investment strategies.

6. The Partnership's general partners will consist of natural persons (the "Individual General Partners") and the Corporate General Partner. In its capacity as Corporate General Partner, MacKenzie Patterson Advisers, Inc. will take no part in the supervision of the Partnership's business. The Managing General Partner, who is also an Individual General Partner, will be responsible for providing managerial and administrative services to the Partnership, and for admitting additional or assignee Limited Partners. Initially, the Individual General Partners will consist of two independent general partners, defined to be individuals who are natural persons and who are not "interested persons" (as defined in the Act) of the Partnership (the "Independent General Partners"). The limited partnership agreement governing the Partnership (the "Partnership Agreement") will provide that if, at any time, the number of Independent General Partners is less than a majority of the General Partners, then within sixty days thereafter, the remaining General Partners shall designate and admit one or more Independent General Partners so as to restore the number of Independent General Partners to a majority of the General Partners. The Independent General Partners will assume the responsibilities and obligations imposed by the Act on non-interested directors of a registered investment company organized as a corporation.

7. The Partnership Agreement provides that the Independent General Partners are to be elected at annual meetings of the Limited Partners and will serve for annual terms. The Partnership Agreement further provides that the Independent General Partners may be removed either (a) by failure to be re-elected by the Limited Partners; or (b) with the consent of a majority in interest of the Limited Partners. The Managing General Partner may be removed by a majority of the Limited Partners. Under the terms of the Partnership Agreement, the Corporate General Partner is permitted to participate in the management of the Partnership as a General Partner only in the event that no Individual General Partner remains to elect to continue on the business of the Partnership and then only for the limited period of time (not in excess of sixty days) necessary to convene a meeting of the Partners for the purpose of making such an election.

8. The Managing General Partner and the Corporate General Partner will not resign or withdraw from the Partnership unless certain specified procedures, as set forth in the Partnership Agreement, are followed and successor General Partners have been appointed and such successor General Partners have been consented to by the Limited Partners. The Partnership Agreement will provide that the Managing General Partner and the Corporate General Partner will not resign or withdraw unless successor general partners have been appointed in accordance with the Partnership Agreement and the provisions of sections 15(a), 15(c), and 15(f) of the Act. Specifically, the Managing General Partner and/or Corporate General Partner may voluntarily resign or withdraw from the Partnership only upon compliance with each of the following procedures:

a. The withdrawing General Partner must, at least sixty days prior to such withdrawal, give notification to all Partners of the proposed withdrawal, and that there be substituted a person or corporation designated and described in such notification.

b. The proposed substitute General Partner must represent that it is experienced in performing functions that the withdrawing General Partner is required to perform under the Partnership Agreement, that it has the net worth required under the Partnership Agreement, and that it is willing to become the substitute Managing or Corporate General Partner under the Partnership Agreement. The proposed substitute General Partner must also agree to assume all duties and responsibilities under the Partnership Agreement, without receiving any compensation for services from the Partnership in excess of that payable under the Partnership Agreement to the withdrawing General Partner and without receiving and participating in the withdrawing General Partner's interest other than that agreed upon by the withdrawing General Partner and the successor General Partner.

c. There must be on file at the principal office of the Partnership, audited financial statements of the proposed successor Corporate General Partner. If the proposed successor Managing General Partner is an individual, reviewed financial statements will be filed.

d. A majority in interest of the Limited Partners must consent to the appointment of any successor Managing General Partner.

e. The withdrawing Managing General Partner must cooperate fully with the successor Managing General Partner.

9. The Partnership Agreement will obligate the General Partners to take all actions necessary or appropriate to protect the limited liability of the Limited Partners. As an insurance policy to provide coverage to persons who become Limited Partners has not been obtained, the Independent General partners will review periodically the question of the appropriateness of obtaining an errors and omissions insurance policy for the Partnership.

10. The Limited Partners have no right to control the Partnership's business, but they may exercise certain rights and powers under the Partnership Agreement, including all of the voting rights afforded shareholders of a registered investment company under the Act. The Partnership will obtain an opinion of counsel that the voting rights provided the Limited Partners do not subject the Limited Partners to liability as general partners under the Revised Limited Partnership Act of the State of California ("RLPA"). If a Limited Partner transfers his or her units in a manner which is effective under the Partnership Agreement, the General Partners will, consistent with the requirements of RLPA, take all necessary actions to insure that such transferee or successor becomes a substituted Limited Partner.

11. The Partnership Agreement provides that a meeting of the General and Limited Partners (the "Partners") will be held within one year after the first sale of units to the public (the "Initial Meeting"). At the Initial Meeting the Partners will vote upon the approval and election of General Partners. The Partners holding more than 50% of the units of the Partnership may remove a General Partner by written consent or by a vote cast in person or by proxy at a meeting of the Partners called for such purposes. Partners holding more than 10% of the Partnership's outstanding units may call a meeting of the partners for the purpose of voting on the removal of a General Partner.

12. Pursuant to the Partnership Agreement, the allocations of profits and losses, for tax purposes, between the Managing General Partners and the Limited Partners will be as follows: All profits and losses, other than those attributable to the liquidation of the Partnership or the sale or disposition of all, or substantially all, of the Partnership's assets, will be allocated 1% to the Managing General partner and 99% to the Limited Partners. Profits and losses from the liquidation or sale of all, or substantially all, of the Partnership's assets will be allocated 1% to the Managing General Partners and 99% to the Limited Partners. Distributions of cash during the life of the Partnership will be allocated 1% to the Managing General Partner and 99% to the Limited Partners. To preserve the Partnership's tax status as a partnership, the Individual General Partners and the Corporate General Partner will at all times own as a group not less than 1% of the units outstanding.

13. The Partnership will terminate on December 31, 2022, unless terminated sooner by majority vote of the Limited Partners, sale or liquidation of the investment interests held by the Partnership, or upon certain other conditions set forth in the Partnership Agreement.

Applicants' Legal Analysis

1. Section 2(a)(19) of the Act states that an "interested person" of an investment company includes an "affiliated person" of the company. Under section 2(a)(3)(D), any officer, director, partner, co-partner, or employee of a person is an "affiliated person."

2. Because each Individual General Partner is a partner of the Partnership and a co-partner of the Corporate General Partner, each may be deemed an "affiliated person" of the Partnership and the Corporate General Partner. As an "affiliated person," each Individual General Partner also is an "interested person" of the Partnership an the Corporate General Partner under section 2(a)(19). As such, the Partnership would not be able to comply with various provisions of the Act requiring action by directors who are not "interested persons" of the investment company.

3. Applicants state that the exemption requested from section 2(a)(19) is consistent with the policies of the Act as reflected in the express language of that section, which provides that "no person shall be deemed to be an interested person of an investment company solely by reason of * * * his being a member of its board of directors or advisory board * * *." The Independent General Partners will perform the same functions for the Partnership as directors perform for an investment company organized as a corporation. Applicants contend therefore that the Independent General Partners should be treated in the same manner as non-interested directors of an investment company.

4. Under section 2(a)(3)(D), each limited partner would be deemed an "affiliated person" of the Partnership and the other partners by virtue of his or her status as a partner of the Partnership and co-partner of the other partners. The requested exemption from the definition of "affiliated person" contained in section 2(a)(3)(D) of the Act for Limited Partners who are not affiliated persons by virtue of any other provision of the Act will allow substantially similar treatment to the Limited Partners as that accorded to investors in investment companies organized as corporations or trusts.

Applicants' Conditions

If the requested order is granted, the applicants will comply with the conditions set forth below:

1. The General Partners of the Partnership, except the Corporate General Partner, will be natural persons and a majority of the general partners will not be interested persons of the Partnership.

2. The Individual General Partners will assume the responsibilities and obligations imposed on directors of a registered investment company by the Act and the regulations thereunder. The Independent General Partners, all of whom are Individual General Partners, will assume the responsibilities and obligations imposed on non-interested directors of a registered investment company by the Act and the regulations thereunder.

3. The Corporate General Partner, as long as it acts as an investment adviser to the Partnership, will not resign or withdraw as the non-managing General Partner of the Partnership unless a successor Corporate General Partner has been appointed in accordance with the Partnership Agreement and the provisions of sections 15(a), 15(c), and 15(f) of the Act.

4. The Limited Partners will have the right to vote on all matters requiring their approval under the Act as if they were shareholders of an incorporated registered investment company, including the right to elect or remove general partners, the right to approve any new or amended investment advisory contract, the right to approve proposed changes in the Partnership's fundamental policies structure, and the right to ratify or reject the appointment of auditors. All units will participate equally in the profits and losses of the Partnership, and each unit will have one vote on all matters to be voted upon by the partners. If a Limited Partner transfers his units in a manner which is effective under the Partnership Agreement, the general partners will promptly take all necessary actions to ensure that such transferee or successor becomes a substitute Limited Partner.

5. The Partnership will obtain an opinion of counsel stating that the voting rights provided the Limited Partners do not subject the Limited Partners to

liability as general partners under California law.

6. The Partnership will obtain an opinion of counsel that the distributions and allocations provided for in the Partnership Agreement are permissible under section 205 of the Advisers Act and under section 15(a) of the Act.

7. The Partnership will obtain an opinion of counsel or a ruling of the Internal Revenue Service that the current structure of the Partnership will entitle it to be taxed as a partnership for Federal income tax purposes.

8. The Partnership does not contemplate making in-kind distributions of investments from its portfolio to the general partners. In any event, prior to making such distribution, the Partnership will obtain either a no action letter from the staff of the SEC stating that such distribution does not violate the Advisers Act or an order of exemption pursuant to section 206A of the Advisers Act permitting such distribution.

9. Applicants will comply with the provisions of section 23(b) of the Act.[1]

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-28311 Filed 11-20-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19100; 812-7891]

Van Eck Funds, et al.; Notice of Application

November 16, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Van Eck Funds, Van Eck Associates Corporation (the "Adviser"), and Van Eck Securities Corporation (the "Distributor").

RELEVANT ACT SECTIONS: Conditional order requested under section 6(c) of the Act for an exemption from the provisions of sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c) and 22(d) of the Act and rule 22c-1 thereunder.

[1] Applicants originally proposed a capital structure in which the Managing General Partner would receive a 3% interest in the Partnership in exchange for a capital contribution of $3,000. Profits and losses would have been allocated 97% to the Limited Partners and 3% to the Managing General Partner. Applicants revised the proposed partnership capital structure upon being advised by the Division of Investment Management that this arrangement would violate section 23(b).

SUMMARY OF APPLICATION: Applicants seek a conditional order that would permit certain series of the Van Eck Funds (a) to issue two classes of shares representing interests in the same portfolio of securities, one of which would convert into the other class after a specified period permitting investors to benefit from lower rule 12b-1 distribution fees, and (b) to assess a contingent deferred sales charge ("CDSC") on certain redemptions of shares of one of the classes and to waive the CDSC under certain circumstances.

FILING DATE: The application was filed on March 24, 1992, and amended on August 21, 1992 and November 3, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 11, 1992, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who with to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 122 East 42nd Street, New York, New York 10168.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504-2283, or C. David Messman, Branch Chief, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

A. The Dual Distribution System

1. Van Eck Funds is an open-end management investment company registered under the Act. It is organized as a Massachusetts business trust and comprised of several series. The World Income Fund and the World Trends Fund (the "Funds") series of the Van Eck Funds invest directly in a portfolio of investment securities. Each of the Funds is advised by the Adviser, and the Distributor serves as the principal underwriter for the Funds's shares.

2. Applicants request that any relief granted in accordance with this application apply to any open-end management investment company, or series thereof, that (a) hereafter becomes part of the same "group of investment companies" as that term is defined in rule 11a-3 under the Act, and (b) invests its assets directly in a portfolio of investment sercurities—as opposed to investing its assets in another registered investment company with the same investment objectives and policies.[1]

3. Currently, the Funds offer a single class of shares to investors that are subject to a rule 12b-1 fee and, in certain cases, a front-end sales charge. Applicants propose to establish a dual distribution arrangement (the "Dual Distribution System") to enable the Funds to offer investors the option of purchasing two classes of shares, designated respectively as "Class A" shares and "Class B" shares. Class A shares will be subject to a conventional front-end sales load and a rule 12b-1 distribution fee at an expected annual rate of up to .30% of the average daily net asset value of the Class A shares. Class B shares will be subject to a CDSC and a rule 12b-1 distribution fee at an annual rate of up to 1.00% of the average daily net asset value of the Class B shares.

4. Each class of shares will represent interests in the same portfolio of investments of a Fund and will differ only in the following aspects: (a) The fees charged to the Class A shares and Class B shares under the rule 12b-1 plan applicable to each such class will be applied only against each such class; (b) a higher transfer agency fee may be imposed on the Class B shares than on the Class A shares; (c) shareholders of each of the Class A and Class B shares will have exclusive voting rights with respect to the rule 12b-1 plan applicable to their respective class of shares: (d) only the Class B shares will have a conversion feature providing for the automatic conversion to Class A shares within a specified period of years from issuance, which will be at least two years but will not exceed eight years; (e) the designation of each class of shares of a Fund; and (f) each class will have different exchange privileges.

5. The Fund's rule 12b-1 plan will provide that payments will be made

[1] Applicants have obtained exemptive relief that is similar to the relief sought in the present application on behalf of the series of the Van Eck Funds that invest their assets in other registered investment companies. Investment Company Act Release Nos. 18904 (August 21, 1992) (notice) and 18957 (September 16, 1992).

only to reimburse the Distributor for expenses incurred in providing distribution-related services. Each Fund will accrue expenses and pay the distribution fee at a rate fixed by the Fund's Board of Trustees (but not in excess of the applicable maximum percentage rate). Such rate is intended to result in payments that will not exceed the amounts actually expended for distribution by the Distributor on behalf of a Fund. If, for any fiscal year of a Fund, the amount paid to the Distributor would exceed the amount of distribution expenses incurred by the Distributor during the past fiscal year (plus, in the case of Class B shares, prior unreimbursed commission-related expenses), then the amount of the distribution fee paid to the Distributor will be reduced accordingly.

6. The Distributor will furnish the Trustees of the Funds with quarterly and annual statements of distribution revenues and expenditures for each respective class of shares in accordance with the requirements of paragraph (b)(3)(ii) of rule 12b–1. These statements are intended to enable the Trustees to make the findings required by paragraphs (d) and (e) of the rule. Only distribution expenditures properly attributable to the sale of a particular class will be used to justify the distribution fee charged to that class.

7. Class B shares, including shares attributable thereto that were purchased through the reinvestment of dividends and distributions, will automatically convert to Class A shares at net asset value in a specified number of years (not less than two nor more than eight) after the end of the calendar month in which the shares were purchased. The conversion of Class B shares to Class A shares is subject to the continuing availability of an opinion of counsel or a ruling of the Internal Revenue Service that payment of different dividends on Class A and Class B shares does not result in the Funds' dividends and distributions constituting "preferential dividends" under the Internal Revenue Code of 1986, as amended (the "IRC"), and that the conversion of shares does not constitute a taxable event under then current federal income tax law. The conversion of Class B shares to Class A shares may be suspended if such an opinion or ruling is no longer available. In the event that the conversion of Class B shares does not occur, Class B shares would continue to be subject to the higher distribution fee and any higher transfer agent costs associated with the Class B shares.

8. Class A shares and Class B shares will have different exchange privileges. A holder of shares of any Fund sponsored by the Adviser that is sold subject to a front-end sales load (including Class A shares) may exchange his or her shares for Class A shares of another Fund without the payment of any sales or service charge. It is contemplated that Class B shares of one Fund only will be exchangeable for Class B shares of other Funds. The exchange privileges applicable to both classes will be made in reliance on rule 11a–3.

9. Under the Dual Distribution System, the net asset value will be calculated separately for each class of shares because the classes will have different expenses—Class B shares will be subject to a higher rule 12b–1 fee and possibly higher transfer agency fees than that of Class A shares. Income and expenses (except for class specific expenses) will be allocated on a daily basis among the classes based on the ratio of relative net asset values of each class to the total net assets of both classes combined. Class specific expenses will be allocated to the class to which they are attributable. Realized and unrealized gains and losses will be allocated on a daily basis among the classes based upon relative net assets. Based on this allocation of income, expenses, and realized and unrealized gains and losses between the two classes of shares, the Funds will compute the daily net asset value of Class A shares and Class B shares, respectively.

B. The CDSC

1. Applicants also propose that the Funds be permitted to assess a CDSC on redemptions of Class B shares and waive the CDSC under certain circumstances. The amount of the CDSC to be imposed will depend on the number of years since the investor purchased the shares being redeemed. Each Fund's particular CDSC schedule may vary, but the CDSC will comply with the National Association of Securities Dealers' sales load limitations and the provisions of proposed rule 6c–10 under the Act.

2. The CDSC will not be imposed on redemptions of Class B shares purchased a specified period of time prior to the redemptions (the "CDSC Period") or on Class B shares derived from reinvestment of distributions. The CDSC Period will not exceed six years. Furthermore, no CDSC will be imposed on an amount that represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for shares purchased during the CDSC Period. In determining the applicability and rate of any CDSC, it will be assumed that a redemption is made first of shares representing capital appreciation, next of shares derived from reinvestment of dividends and capital gain distributions, and finally of other shares held by the shareholder for the longest period of time.

3. Applicants also seek the ability to waive the CDSC (a) on redemptions following the death or disability, as defined in section 72(m)(7) of the IRC, of a shareholder if redemption is made within one year of death or disability; (b) in connection with certain distributions from an Individual Retirement Account, or other qualified retirement plan as described in the application; and (c) in connection with redemptions of shares purchased by active or retired officers, directors or trustees and employees of the Funds, Adviser, Distributor or affiliated companies, by members of the immediate families of such persons and by dealers having a sales agreement with the Distributor. If a Fund waives or reduces the CDSC, such waiver or reduction will be uniformly applied to all offerees in the class specified.

Applicants' Legal Analysis

A. The Dual Distribution System

1. Applicants are requesting an exemptive order under section 6(c) to the extent that the proposed issuance and sale of Class A and Class B shares representing interests in the Funds might be deemed: (a) to result in the issuance of a "senior security" within the meaning of section 18(g) and thus be prohibited by section 18(f)(1), and (b) to violate the equal voting provisions of section 18(i). Section 18(f)(1) provides in relevant part that "it shall be unlawful for any registered open-end company to issue any class of senior security or to sell any senior security of which it is the issuer," and section 18(g) defines a "senior security" as any "stock of a class having priority over any other class as to distribution of assets or payment of dividends." Section 18(i) provides in relevant part that every share of stock issued by a registered management company shall be "a voting stock and have equal voting rights with every other outstanding voting stock."

2. The creation of Class A and Class B shares may result in shares of a class having priority over another class as to payment of dividends because under the proposed arrangement the holders of Class B shares would pay a higher distribution fee than the holders of Class a shares, and Class B shareholders may pay a higher transfer agency fee than

the holders of Class A shares. In addition, the creation of the two classes may result in the shares of a class having unequal voting rights because the Class A shares and the Class B shares would be entitled to exclusive voting rights with respect to the matters concerning their respective rule 12b–1 plans.

3. Section 6(c) provides in part that, upon application, the SEC may conditionally exempt any class of transactions from the provisions of the Act to the extent the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested exemption from section 18 meets the standards of section 6(c).

4. Applicants assert that the Dual Distribution System does not raise any of the legislative concerns that section 18 was designed to ameliorate. The proposal does not involve borrowing and does not affect a Fund's existing assets or reserves. The proposed arrangement also will not increase the speculative character of the shares of a Fund since all such shares will participate *pro rata* in a Fund's appreciation, income, and expenses with the exception of the differing distribution fees and any different transfer agency costs payable by each class. In this way, mutuality of risk will be preserved with respect to each class of shares of a Fund.

5. No class of shares will have any preference or priority over any other class in a particular Fund in the usual sense (that is, no class will have distribution or liquidation preferences with respect to particular assets and no class will be protected by any reserve or other account). Moreover, the proposed allocation of expenses and voting rights relating to the rule 12b–1 plans is equitable and would not discriminate against any group of shareholders.

6. Applicants believe that the Dual Distribution System will both facilitate the distribution of shares by the Funds and provide investors with a broader choice as to the method of purchasing shares in a Fund. Applicants also believe owners of each class of shares may be relieved of a portion of the fixed costs normally associated with investing in mutual funds since such costs would, potentially, be spread over a greater number of shares than would otherwise be the case. Finally, the conversion feature will benefit long-term Class B shareholders by relieving them of most of the burden of distribution expenses after a period of time sufficient for the Distributor to be compensated for the expenses incurred in connection with the distribution of shares.

B. The CDSC

1. Applicants also are requesting an exemptive order under section 6(c) from the provisions of section 2(a)(32), 2(a)(35), 22(c), and 22(d) and rule 22c–1 thereunder to the extent necessary to permit the Funds to assess a CDSC on certain redemptions of Class B shares and to waiver the CDSC with respect to certain types of redemptions.

2. Section 2(a)(32) defines a "redeemable security" as "any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer * * * is entitled (whether absolutely or only out of surplus) to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof." In addition, section 5(a)(1) defines an "open-end company," in relevant part, as a management company that offers for sale any redeemable security of which it is the issuer. Applicants contend that the CDSC will in no way restrict a shareholder from receiving his or her proportionate share of the current net assets of any Fund, but merely will defer the deduction of a sales charge and make it contingent upon an event that may never occur. However, to avoid any question regarding whether the CDSC would cause shares of any Fund not to be "redeemable securities;" thereby jeopardizing the Fund's status as an open-end management company, applicants seek relief from section 2(a)(32) to the extent necessary to impose the CDSC.

3. Section 2(a)(35) defines the term "sales load" as the difference between the price of a security to the public and that portion of the proceeds from the sale of the security that is received and invested or held for investment by the issuer. Applicants believe that the CDSC is consistent with the intent of the section 2(a)(35) definition to describe charges used to pay for sales of an investment company's shares. Nevertheless, in view of the possibility that the section might be construed to apply only to a sales load charged at the time of purchase, applicants seek an exemption from the provisions of section 2(a)(35) to the extent necessary to implement the CDSC.

4. Section 22(c) and rule 22c–1 thereunder require a registered investment company issuing redeemable securities to redeem those securities at a price based on the current net asset value of the securities that is next computed after receipt of the tender of the securities for redemption. When a redemption of Fund shares subject to the CDSC is effected, the price of the shares on redemption will be based on their current net asset value. The CDSC merely will be deducted from the redemption proceeds in arriving at the shareholder's net proceeds payable on redemption. However, to avoid any possible questions about whether such a redemption would be at a price based on current net asset value, applicants seek relief from section 22(c) and rule 22c–1 to the extent necessary to permit the implementation of the CDSC.

5. Section 22(d) prohibits an investment company registered under the Act from selling its redeemable securities other than at a current public offering price described in the company's prospectus. Rule 22d–1 exempts a registered investment company from the provisions of section 22(d) to the extent necessary to permit the sale of those securities to particular classes of investors or in various kinds of transactions at prices that reflect scheduled variations in, or elimination of, the sales load. The requested exemptive relief would be consistent with the policies underlying rule 22d–1 because the Funds will disclose fully the CDSC and associated waivers in their prospectus. Applicants seek an exemption from section 22(d) to the extent necessary to implement the CDSC and waivers thereof as described above.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions: [1]

A. Conditions Relating to the Dual Distribution System

1. The Class A and Class B shares will represent interests in the same portfolio of investments of a Fund and be identical in all respects, except as set forth below. The only differences between Class A and Class B shares of the same Fund will relate solely to: (a) The impact of the respective rule 12b–1 plan payments made by each of the Class A shares and Class B shares of a Fund, any higher incremental transfer agency costs attributable solely to the Class B shares of a Fund, and any other incremental expenses subsequently identified that should be properly

[1] Condition 4 in the application, which relates to shareholder approval of a rule 12b–1 plan, is no longer required for exemptive relief permitting multiple classes of shares. Any order granting such relief would not be subject to this condition. The conditions in this notice are renumbered to reflect the deletion of the condition.

allocated to one class which shall be approved by the SEC pursuant to an amended order, (b) voting rights on matters which pertain to rule 12b–1 plans, (c) the different exchange privileges of the two classes of shares as described in the prospectuses (and as more fully described in the statements of additional information) of the Funds, (d) the conversion feature applicable only to the Class B shares, and (e) the designation of each class of shares of a Fund.

2. The Trustees of each of the Funds, including a majority of the Independent Trustees, shall have approved the Dual Distribution System, prior to the implementation of the Dual Distribution System by a particular Fund. The minutes of the meetings of the Trustees of each of the Funds regarding the deliberations of the Trustees with respect to the approvals necessary to implement the Dual Distribution System will reflect in detail the reasons for determining that the proposed Dual Distribution System is in the best interests of both the Funds and their respective shareholders and such minutes will be available for inspection by the SEC staff.

3. On an ongoing basis, the Trustees of the Funds, pursuant to their fiduciary responsibilities under the Investment Company Act and otherwise, will monitor each Fund for the existence of any material conflicts between the interests of the two classes of shares. The Trustees, including a majority of the Independent Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Adviser and the Distributor will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, the Adviser and the Distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. The Trustees of the Funds will receive quarterly and annual Statements complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the Statements, only distribution expenditures properly attributable to the sale of one class of shares will be used to support the reimbursement of such expenditures through the rule 12b–1 fee charged to shareholders of such class of shares. Expenditures not related to the sale of a specific class of shares will not be presented to the Trustees to support the reimbursement of such expenditures through rule 12b–1 fees charged to shareholders of such class of shares. The Statements, including the allocations upon which they are based, will be subject to the review and approval of the Independent Trustees in the exercise of their fiduciary duties under rule 12b–1.

5. Dividends paid by a Fund with respect to each class of shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that fee payments made under the rule 12b–1 plans relating to the Class A and Class B shares, respectively, will be borne exclusively by each such class and except that any higher incremental transfer agency costs attributable solely to Class B or Class A shares will be borne exclusively by such class.

6. The methodology and procedures for calculating the net asset value and dividend/distributions of the two classes and the proper allocation of income and expenses between the two classes has been reviewed by an expert (the "Expert"). The Expert has rendered a report to the Applicants, which has been included as Exhibit D to the application stating that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner, subject to the conditions and limitations in that report. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1). The work papers of the Expert with respect to such reports, following request by the Funds which the Funds agree to make, will be available for inspection by the SEC staff upon the written request for such work papers by a senior member of the Division of Investment Management or of a Regional Office of the SEC, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrator or Associate or Assistant Administrator. The initial report of the Expert is a "Special Purpose" report on the "Design of a System," and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

7. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends/distributions between the two classes and proper allocation of expenses between such classes and this representation has been concurred with by the Expert in the initial report referred to in condition (6) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (6) above. Applicants agree to take immediate corrective action if the Expert, or appropriate substitute Expert, does not so concur in the ongoing reports.

8. The prospectus of the Funds will include a statement to the effect that a salesperson and any other person entitled to receive compensation for selling Fund shares may receive different levels of compensation for selling one particular class of shares over another in a Fund.

9. The Distributor will adopt compliance standards as to when Class A and Class B shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Funds to agree to conform to these standards.

10. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees of the Funds with respect to the Dual Distribution System will be set forth in guidelines which will be furnished to the Trustees as part of the materials setting forth the duties and responsibilities of the Trustees.

11. Each Fund will disclose in its prospectus the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of share offered through the prospectus. Class A and Class B shares will be offered and sold through a single prospectus. The shareholder reports of each Fund will disclose the respective expenses and performance data applicable to each class of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not a per class basis. The Fund's per share data, however, will be prepared on a per class basis with respect to the two classes of shares of the Funds. To

the extent any advertisement or sales literature describes the expenses or performance data applicable to Class A or B shares, it will disclose the expenses and/or performance data applicable to both classes. The information provided by Applicants for publication in any newspaper or similar listing of the Funds' net asset values and public offering prices will separately present Class A and Class B shares.

12. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization or acquiescence in any particular level of payments that the Funds may make pursuant to rule 12b-1 plans in reliance on the exemptive order.

13. Class B shares will convert to Class A shares on the basis of the relative net asset values of the two classes without the imposition of any sales load, fee or other charge.

B. Condition Relating to the CDSC

Applicants will comply with the provisions of proposed rule 6c-10 under the Act, Investment Company Act Release No. 16619 (November 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted or amended.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-28312 Filed 11-20-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1726]

Advisory Committee on International Investment; Notice of Closed Meeting

The Department of State announces a meeting of the Advisory Committee on International Investment on Monday, December 14, from 9 a.m. to 12:30 p.m. in room 1107, Department of State, 2201 C Street, NW., Washington, DC.

This meeting will discuss on-going investment treaty and other negotiations with nations in Eastern Europe and republics of the former Soviet Union. Pursuant to section 10 (d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(9), it has been determined that this meeting of the Advisory Committee on International Investment will be closed to the public. The meeting will involve the discussion of the substance of treaty negotiations which have not yet been concluded, the public disclosure of which could adversely affect U.S. interests.

Access to the Department of State is controlled. Advisory Committee members planning to attend this meeting should enter the Department through the Diplomatic ("C" Street) Entrance. Members are asked to confirm their attendance in advance by contacting Ms. Kim Butler or Ms. Jo Ann Adams on 202-647-2585.

Dated: November 17, 1992.

Christopher J. Beede,

Executive Secretary, Advisory Committee on International Investment.

[FR Doc. 92-28368 Filed 11-20-92; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 1725]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Bulk Chemicals; Meeting

The Working Group on Bulk Chemicals of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on December 8, 1992, in room 2415, at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001. The meeting will consist of two sessions, one in the morning and the other in the afternoon. The morning session (9:30 a.m. to 11:30 a.m.) will be used to discuss the results of the 22nd Session of the Subcommittee on Bulk Chemicals (BCH 22) of the International Maritime Organization (IMO) which was held on September 7-11, 1992, at the IMO Headquarters in London. In addition, plans and preparations for the 23rd session (BCH 23) to be held September 13-17, 1993 will be addressed.

Among other things, the items of particular interest are:

a. Amendments and interpretation of the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code) and the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code).

b. Amendments and interpretation of the provisions of Annex II of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78).

c. Amendments and interpretation of the provisions of the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (GC Code) and the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code).

d. Transboundary movement of wastes by sea.

e. Review of existing ships' safety standards.

f. Draft HNS convention—Review of the Hazardous and Noxious Substances Working Group Report.

g. Review of the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990 (OPRC).

The afternoon session, which will begin at 1 p.m. will be dedicated to issues dealing with the prevention of air pollution from ships including fuel oil quality. In addition to the results of the discussions held at BCH 22 and a discussion of the plans and preparations for BCH 23, a substantial portion of the session will be set aside to discuss the development of a regional framework for controlling SO_x and NO_x emissions from ships.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: CDR K.J. Eldridge, U.S. Coast Guard (G-MTH-1), 2100 Second Street SW., Washington, DC 20593-0001 or by calling (202) 267-1217.

Dated: November 17, 1992.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 92-28358 Filed 11-20-92; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended November 13, 1992

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48464
Date Filed: November 10, 1992
Parties: Members of the International Air Transport Association
Subject: TC31 Reso/P 0957 dated November 6, 1992 Japan-North America Expedited Resos r-1-046G R-2- 056g r-3- 046h r-4- 056h r-5- 066y
Proposed Effective Date: Expedited January 4, 1993

Docket Number: 48467
Date Filed: November 12, 1992
Parties: Members of the International Air Transport Association
Subject: TC123 Reso/P 0104 dated November 9, 1992 North/Mid/South Atlantic Reso 002-R-2

Proposed Effective Date: January 1, 1993.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-28359 Filed 11-20-92; 8:45 am]

BILLING CODE 4910-62-M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended November 13, 1992

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47730.

Date filed: November 10, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 8, 1992.

Description: Amendment No. 2 to the Application of South African Airways, pursuant to section 402 of the Act and Subpart Q of the Regulations for a foreign air carrier permit for authority to serve Los Angeles, California via Rio De Janeiro, Brazil.

Docket Number: 42061.

Date filed: August 27, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 24, 1992.

Description: Amendment No. 4 to the Application of Malaysia Airlines for issuance of a foreign air carrier permit originally filed in this docket on March 23, 1992.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-28360 Filed 11-20-92; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-92-33]

Petitions for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before December 14, 1992.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rule Docket (AGC-10), room 925G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Mrs. Jeanne Trapani, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-7624.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on November 13, 1992.

Annette C. Pitts,

Acting Manager, Program Management Staff.

Petitions for Exemption

Docket No.: 25748.

Petitioner: Popular Rotorcraft Association.

Sections of the FAR Affected: 14 CFR 91.319(a) (1) and (2).

Description of Relief Sought: To extend the termination date of Exemption No. 5209, which expires April 30, 1993, and which allows Popular Rotorcraft Association members to conduct pilot and flight instructor training in an experimental gyroplane for compensation or hire.

Docket No.: 26991.

Petitioner: Mr. Rube Goldberg.

Sections of the FAR Affected: 14 CFR 121.574(a).

Description of Relief Sought: To allow Mr. Rube Goldberg to carry his own source of oxygen aboard commercial airplanes.

Dispositions of Petitions

Docket No.: 26568.

Petitioner: Northwest Aerospace Training Corporation.

Sections of the FAR Affected: 14 CFR 61.55(b)(2), 61.56(b)(1), 61.57(c) and (d), 61.58(c)(1) and (d), 61.63(d)(2) and (3), 61.67(d)(2), 61.157(d)(1) and (2) and (e)(1) and (2), and appendix A of part 61.

Description of Relief Sought/Disposition: To modify the conditions and limitations of Exemption No. 5338, which permits Northwest Aerospace Training Corporation (NATCO) and persons who contract for service from NATCO to use FAA-approved flight simulators to meet the training and testing requirements described in the sections of the FAR affected. *Grant, November 5, 1992, Exemption No. 5338A.*

Docket No.: 26703.

Petitioner: Soloy Dual Pac, Inc.

Sections of the FAR Affected: 14 CFR 21.19(b)(1).

Description of Relief Sought/Disposition: To amend Exemption No. 5172 to permit Soloy Dual Pac, Inc., to use two Pratt and Whitney PT6B-35F turboshaft engines in lieu of the two Allison 250-C30 turboshaft engines. *Grant, October 14, 1992, Exemption No. 5172A.*

Docket No.: 26704.

Petitioner: Virginia State Police Aviation Unit.

Sections of the FAR Affected: 14 CFR 91.111(a), 91.119(c), 91.127(c), 91.159(a), and 91.209(a).

Description of Relief Sought/Disposition: To allow the Virginia State Police Aviation Unit to perform certain aircraft operations in noncompliance with the above regulations governing use of aircraft lights, operations in an airport traffic area, visual flight rules cruising altitudes, minimum safe altitudes, and operating near other aircraft. *Partial Grant, November 6, 1992, Exemption No. 5548.*

Docket No.: 26845.

Petitioner: University of North Dakota.

Sections of the FAR Affected: 14 CFR 141.65.

Description of Relief Sought/Disposition: To allow the University of North Dakota to recommend graduates of its flight instructor certification courses for flight instructor certificates, with the associated ratings, without having to take the Federal Aviation Administration flight test. *Grant, November 5, 1992, Exemption No. 5546.*

Docket No.: 26943.

Petitioner: National Charter Network, Inc.

Sections of the FAR Affected: 14 CFR 43.3(g).

Description of Relief Sought/Disposition: To allow the pilots employed by National Charter Network, Inc., to reconfigure the aircraft from passenger to ambulance and from ambulance to passenger

configurations. *Grant, November 5, 1992, Exemption No. 5547.*

[FR Doc. 92-28345 Filed 11-20-92; 8:45 am]
BILLING CODE 4910-13-M.

Office of Commercial Space Transportation

[Notice 92-27]

Commercial Space Transportation; Evaluation of COMET Reentry Vehicle System

AGENCY: Office of the Secretary; Office of Commercial Space Transportation, DOT.

ACTION: Notice.

SUMMARY: Pursuant to the Commercial Space Launch Act of 1984, as amended, and the Commercial Space Transportation Licensing Regulations, the Department of Transportation Licensing Regulations, the Department of Transportation (the Department) is evaluating a proposed commercial reentry vehicle system as part of the first application for a license to place a reentry vehicle into space. This Notice describes generally the Department's approach to ensuring that the proposed reentry mission can be conducted safely.

FOR FURTHER INFORMATION CONTACT: Norman C. Bowles, Associate Director, Licensing and Safety Division, Office of Commercial Space Transportation, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590 (202) 366-2929.

SUPPLEMENTARY INFORMATION:

Background

In a notice published March 24, 1992 in the **Federal Register** (57 FR 10213-10216) (the notice), the Office of Commercial Space Transportation (OCST) described its process for evaluating the first commercial reentry vehicle system to ensure that the vehicle is capable of operating safely and reliably. The vehicle safety approval process is one component of OCST's approach to protecting the public health and safety, safety of property, and national security and foreign policy interests of the United States, consistent with the Department's mandate under the Commercial Space Launch Act of 1984, as amended (the Act,), 49 U.S.C. App. 2601-2623.

As explained in the Notice, OCST evaluates license applications for the conduct of proposed launch activities on a case-by-case basis, thereby retaining the flexibility necessary to address the wide variety of launch proposals presented for licensing.

The notice identifies and explains the three criteria against which the first reentry vehicle developed under the COMmercial Experiment Transporter or COMET Program is being evaluated prior to issuing a vehicle safety approval. The criteria are designed to assess the capability of the COMET reentry vehicle system as it relates to public safety.

In the notice, OCST indicated that it was planning to issue two licenses relating to the reentry mission—one for the launch of a conventional expendable launch vehicle (ELV) placing the COMET reentry vehicle system into orbit, and one for the reentry operation returning the reentry vehicle to a designated landing site on earth. Subject to final approval by the Air Force, the designated landing site for the reentry vehicle is the Utah Test and Training Range, a U.S. Government facility located in a sparsely populated area of Utah.[1]

OCST now intends to issue a single license authorizing the ELV launch into space of the COMET reentry vehicle system for its intended reentry to earth. For purposes of licensing the ELV launch, the reentry vehicle system carried aboard the ELV and then placed into orbit is the payload.

From a public safety perspective, this change in licensing approach has no impact.

Section 6(b)(2) of the Act gives the Department broad authority to determine whether the launch of any payload not otherwise subject to licensing by another Federal agency should be prevented because it would jeopardize the public health and safety, safety of property, or any national security interest or foreign policy interest of the United States (49 U.S.C. App. 2605(b)(2)). OCST exercises its regulatory authority over unlicensed payloads through the mission review process described in §§ 411.7 and 415.21-415.25 (14 CFR 411.7, 415.21-415.25) of the Commercial Space Transportation Licensing Regulations (the regulations, 14 CFR Chapter III. Under § 411.7 of the regulations, the operator of an unlicensed payload may apply to OCST for this determination, in advance of a launch license request or request for mission approval (14 C.F.R. 411.7).

[1] The Department has requested to be a cooperating agency with the Air Force in conducting a site-specific environmental assessment for the COMET reentry vehicle operation. An Environmental Impact Statement for Commercial Reentry Vehicles was issued by the Department in May, 1992.

Under the single license approach adopted by OCST for the first COMET reentry mission, Space Industries, Inc. (SII), as the operator of the reentry vehicle system, may submit an application for a payload determination. The payload determination is one element of OCST's mission review process, and will become part of the record used to support the licensing action for the ELV launch (14 CFR 411.7. 415.7, 415.23, 415.25).

In conducting the payload determination, OCST will continue the vehicle safety review process, as described in the Notice, and evaluate SII's capability for operating the system safely. Following appropriate interagency coordination, upon issuance of a vehicle safety approval, if any, and a determination that the vehicle can be operated safely by SII, OCST will issue a payload determination to SII finding that there is no public safety or other reason under the regulations to prevent the launch of the COMET reentry vehicle system (49 U.S.C. App. 2605(b)(2)). The payload determination will reflect the precise design and operating limits approved by OCST as part of the vehicle safety approval, and any conditions on the vehicle's approval and its operation determined necessary to protect public safety.

Issued in Washington, DC., this 12 day of November 1992.

Donald R. Trilling,

Acting Director, Office of Commercial Space Transportation.

[FR Doc. 92-28400 Filed 11-20-92; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: November 17, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: None.
Type of Review: New collection.
Title: Cognitive and Psychological Research to be Used for Improving Current Tax Forms and Taxpayer Service Procedures.
Description: The proposed research will improve the quality and data collection by examining the psychological and cognitive aspects of methods and procedures such as: Interviewing processes, forms redesign, survey and tax collection technology and operating procedures (internal and external in nature).
Respondents: Individuals or households, Federal agencies or employees.
Estimated Number of Respondents: FY 1993—2,000; FY 1994—3,000; FY 1995—4,000.
Estimated Burden Hours Per Respondent: FY 1993—1 hour; FY 1994—1 hour; FY 1995—1 hour.
Frequency of Response: Other (one-time only).
Estimated Total Reporting Burden: 9,000 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92–28362 Filed 11–20–92; 8:45 am]

BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

Summer Institute for EFL Educators From Francophone and Lusophone Africa

AGENCY: United States Information Agency.

ACTION: Notice—request for proposals.

SUMMARY: The Bureau of Educational and Cultural Affairs of the United States Information Agency requests proposals for Summer Institutes for African educators in the field of English-as-a-Foreign-Language (EFL). The general objective of a Summer Institute is to support and encourage the upgrading of the teaching of English at the secondary school level in French and Portuguese speaking African countries. The Summer Institute will focus on improvement of skills for teaching EFL and on development of skills for training and evaluating teachers of EFL.

Participants will be individuals who teach, administer, or supervise secondary school level programs in EFL from French and Portuguese speaking African countries. USIA asks for detailed proposals from U.S. not-for-profit institutions of higher education which have an acknowledged reputation in the field of training teachers of EFL, special expertise in handling cross-cultural programs, and experience with African educators. Subject to availability of funds, two grants will be awarded to conduct two 1993 Summer Institutes.

DATES: Deadline for proposals: All copies of proposals must be received at the U.S. Information Agency by 5 p.m., Washington, DC time on January 14, 1993. Faxed documents will not be accepted, nor will documents postmarked January 14, 1993, but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. The Summer Institutes should be programmed to encompass about 45 days beginning on or about Saturday, July 10, 1993, and ending on or about Saturday, August 21, 1993. Institutions may propose minor variations in beginning and ending dates to coincide with local Summer Session academic calendars. No funds may be expended until a grant agreement is signed with USIA's Office of Contracts.

ADDRESSES: The original and 15 copies of the completed application, including required forms, should be submitted by the deadline to: U.S. Information Agency, Ref: Summer Institute for EFL Educators from Francophone and Lusophone Africa, Office of Grants Management, E/XE, room 336, 301 4th Street SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions should contact Ann J. Martin at the U.S. Information Agency, Academic Exchange Programs Division, E/AEA, room 232, 301 4th Street SW., Washington, DC 20547, telephone (202) 619–5335, to request detailed application packets, which include award criteria additional to this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION:

Overview

The Bureau of Educational and Cultural Affairs of the United States Information Agency (USIA) solicits proposals for Summer Institutes for African secondary school teachers, trainers of secondary school teachers and supervisors/inspectors of English-as-a-Foreign-Language (EFL). Subject to availability of funds, two grants will be awarded to conduct two separate 1993 Summer Institutes. Approximately 24 teachers selected from French and Portuguese speaking African countries will participate in each Summer Institute. Participants will be individuals who teach, administer, or supervise secondary school level programs in EFL.

USIA asks for detailed proposals from U.S. institutions of higher education which have an acknowledged reputation in the field of teaching teachers of English-as-a-Foreign-Language (EFL), special expertise in handling cross-cultural programs, and experience with African educators. Note: Applicant organizations should demonstrate a proven record (at least four years) of experience in international exchange.

The general objective of the Institutes is to support and encourage the upgrading of the teaching of English at the secondary school level in French and Portuguese speaking African countries. The specific objectives of the 1993 Summer Institutes are to improve skills for teaching EFL, to develop skills for training and evaluating teachers of EFL, and to stimulate initiative to assume leadership in national EFL programs. To meet the needs of the various participants, two concurrent academic components within the same Institute should be designed: one for secondary level classroom teachers with responsibilities in curriculum planning and course material development; and one for teacher trainers with responsibilities in supervision and staff training.

Authority for this exchange is contained in the Mutual Educational and Cultural Exchange Act of 1961, as amended, Public Law 87–256 (Fulbright-Hays Act). The Fulbright-Hays Act seeks to increase mutual understanding between the people of the United States and people of other countries. Pursuant to the Bureau of Educational and Cultural Affairs authorizing legislation, programs must maintain a non-political character; be balanced and representative of the diversity of American political, social and cultural life; maintain scholarly integrity and meet the highest standards of academic excellence.

Guidelines

Program Description: The applicant is asked to design a two-part program:

(a) A five-week academic program at the university with emphasis on methodology and teaching techniques in EFL which will meet the special needs of secondary school teachers and teacher

trainers from Africa. The program should include a variety of formats such as discussion sessions, lectures, workshops, and practicums. Lengthy lectures should be kept to a minimum.

(b) A one-week escorted cultural and educational tour of Washington, DC, planned, arranged, and conducted by the Program Director and principal university staff. The tour should be seen as an integral part of the program, complementing and reinforcing the academic material. Programming in Washington should include a half-day briefing session at the U.S. Information Agency. Proposals may include cultural and educational visits in route to Washington, if such stops contribute to program quality and are cost effective.

In accordance with the objectives of the Summer Institute, African participants will concentrate on their educational studies. However, the academic program should provide time for interaction with American students, faculty, and administrators, and the local community to promote mutual understanding between people of the United States and people of African countries. In this regard, the Institute should incorporate cultural features such as community and cultural activities, field trips to places of local interest, home stays with families in the area (with other secondary educators if possible), and events which will bring the participants into contact with Americans from a variety of backgrounds.

Selection of African Participants: Participants will be selected by the U.S. Information Agency, based on nominations from USIS Posts abroad. Minimum qualifications for all participants will be a two-year teacher training diploma beyond secondary school. Many participants will hold the equivalent of BA/BS degrees from their national education systems.

Few participants will have visited the United States previously. In view of this, an initial orientation to the university community and a brief introduction to U.S. society and education should be considered an intregral part of the Institute and should be held on the first two to three days of the program.

Program Objectives: The U.S. institution should plan to conduct an initial needs assessment of participants and should be prepared to adjust program emphasis as necessary to respond to participants' concerns for teaching EFL. Specific areas to address in the Institute follow:

1. EFL teaching methodology in theory and practice.

2. For teachers› Improvement of pedagogical skills, including classroom management and discipline, with particular attention to the management of large classes of 50 or more students. Development of leadership skills.

3. Development of curriculum materials during the Institute which can be used in the participants' respective countries. To the extent possible, Institute materials should be chosen and/or designed to be useful upon returning to Africa.

4. For teacher trainers: enhancement of teacher training skills; evaluation and observation of classroom teachers; development of in-service training programs for teachers; designing and conducting workshops to train EFL teachers, development of supervisory skills, leadership training.

5. Specialized discussions of the nuances and idiomatic expressions common to American English, as well as particular difficulties of grammar and pronunciation for French-speaking or Portuguese-speaking learners of English.

6. Introduction to computer based word processing with emphasis on hands-on experience. Participants should be encouraged to improve their writing and editing skills through the flexibility provided by common word processing programs.

7. Visits to on-going EFL classes in local educational or community centers, providing participants with opportunities to practice EFL teaching skills.

8. Involvement of participants in American culture through community/cultural activities. This should include interaction with Americans from a variety of backgrounds.

9. On-going evaulation and adjustment of program components accordingly, as well as evaluation of the entire Institute.

10. Adaptability to the different needs of the two groups; that is, to teachers and to teacher trainers.

Program Administration

All Institute programming and administrative logistics, management of the academic program and the cultural tour, local travel, and on-site university arrangements, including enrolling participants as members of Teachers of English to Speakers of other Languages (TESOL) will be the responsibility of the Institute grantee. USIA will be responsible for all communications to and from the U.S. Information Service posts in Africa, which submit nominations to the Academic Exchange Programs Division and assume responsibility for all international travel. USIA will provide the university with participants' curriculum vitae and itineraries and will be available to offer any advice or guidance the university may find useful.

The African participants will arrive directly at the campus site from their home countries. Actual arrival dates may be spread out over a four-day period, from Wednesday to Saturday, depending upon airline flight schedules from each country. It is expected that the university program staff will make arrangements to have participants met upon arrival at the airport nearest the university campus. Plans for receiving and housing participants will need to take the variation in arrival dates into account. Departures will be from Washington, DC. The program staff will have to plan for transportation to airports and differing lengths of stay before departure.

The host institution is responsible for arrangements for lodging, food and maintenance for participants while at the host institution and in Washington. The host institution should strive to balance cost effectiveness in accommodations and meal plans with flexibility for differing diets and personal habits among the participants.

Time Frame

The Summer Institutes should be programmed to encompass 45 days beginning on or about Saturday, July 10, 1993, and ending on or about Saturday, August 21, 1993. Institutions may propose minor variations of no more than 10 days in beginning and ending dates to coincide with local Summer Session academic calendars. Please explain why a variation in dates is proposed and demonstrate improvements in program quality and cost effectiveness that may be achieved thereby.

Successful applicants for grants for the 1993 Summer Institutes may be asked to host subsequent Summer Institutes, subject to evaluations of the initial programs and to availability of funds.

Proposed Budget

A comprehensive line item budget must be submitted with the proposal by the application deadline. Specific guidelines for budget preparation are available in the application packet (see instructions above to obtain packet). Experience with similar institutes indicates that the cost to USIA for the Summer Institute for EFL Educators from Francophone and Lusophone Africa should not exceed $130,000.

Application Requirements (Refer to Application Packet):

Proposals must be submitted within deadline and provide a detailed plan in

response to the objectives and needs outlined above. Applicants should draw imaginatively on the full range of resources offered by their universities but may involve outstanding professionals from other universities or organizations. The overall quality and effectiveness of the Institute hinges upon administrative and organizational competence to manage interactions between African educators and Americans.

The proposal package must include one original and fifteen copies. Each proposal must be presented as follows:

1. A completed and signed *cover sheet* for grant applications which will be provided in the application packet.

2. An *abstract* of the proposed Summer Institute not to exceed two double-spaced pages.

3. A *narrative* not to exceed twenty double-spaced pages. The detailed narrative should outline the structure and organization of Institute courses and must include a day-by-day agenda for classes and supplementary activities, in accordance with program objectives outlined above. Plans for lodging and meals should be discussed in this section. Discuss how the applicant will conduct an initial needs assessment of the specific program participants and adjust program emphasis as necessary. Also note plans to identify appropriate books and readings to be distributed to participants on arrival or to be sent to them upon their return home as follow-up to Institute themes. At the option of the grant applicant, lists of readings may be included in an appendix. A plan for institutional evaluation of the project should also be included.

4. A *budget* in the prescribed format outlining specific expenditures. Refer to the application packet for format.

5. Appendices must contain the following information:

a. Academic/professional resumes of program director(s), instructors, consultants, and program staff (not to exceed two double-spaced pages for each).

b. Evidence of the institution's activities in substantive academic programs which train EFL teachers.

c. Demonstrations of the institution's experiences with similar international exchange projects.

d. Option items for appendices are reading lists and examples of evaluation instruments.

6. Completed forms in support of the proposal. See application packet for the following forms: Bureau of Educational and Cultural Affairs Grant Application Cover Sheet; Assurance of Compliance; Certification Regarding Drug-Free Workplace Requirements; Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion; Disclosure of Lobbying Activities.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the appropriate geographic area office, the budget office and the contracts office. Eligible proposals may also be reviewed by the Office of the General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the following criteria:

1. Quality, rigor, and appropriateness of proposed syllabus to the program objectives of the Institute.

2. Institutional capacity. Proposed personnel and institutional resources should be adequate and appropriate to achieve a substantive academic and pedagogical EFL program.

3. Potential for program excellence and/or track record of applicant institution. The Agency will consider the pasty performance of prior grantees and the demonstrated potential of new applicants.

4. Multiplier effect/impact. Proposed program should contribute to mutual understanding and sharing of information about Africa among American faculty and students, as well as to understanding and information about the U.S. among the African participants.

5. Evaluation plans. Proposals should provide a plan for evaluation by the grantee institution at the conclusion of the Summer Institute.

6. Evidence of strong on-site administrative and managerial capabilities for international visitors with specific discussion of how managerial and logistical arrangements will be undertaken.

7. The experience of the staff assigned to the Institute in a cross-cultural context.

8. Effective use of community and regional resources.

9. A well-thought out and comprehensive cultural tour to complement the academic program.

10. Cost-effectiveness. Administrative components of the grant should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector as well as institutional direct funding contributions.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about April 1, 1993. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: November 16, 1992.

Barry Fulton,

Deputy Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 92-28389 Filed 1-20-92; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 226
Monday, November 23, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Tuesday, Nov. 24, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Final Rules: Garage Door Operators.

The staff will brief the Commission on final rules for automatic residential garage door operators. The rules include: (1) Revised entrapment protection requirements; (2) certification requirements; and (3) recordkeeping requirements.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504-0800.

Dated: November 18, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92-28532 Filed 11-19-92; 3:09 pm]

BILLING CODE 6355-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 1:20 p.m. on Wednesday, November 18, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to a resolution transaction and other issues with respect to certain insured banks.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Stephen R. Steinbrink (Acting Comptroller of the Currency), concurred in by Acting Chairman Andrew C. Hove, Jr., and Mr. Jonathan L. Fiechter, acting in the place and stead of Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 500 17th Street NW., Washington, DC.

Dated: November 18, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92-28440 Filed 11-19-92; 9:51 am]

BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

DATE AND TIME: November 25, 1992, 10:00 a.m.

PLACE: 825 North Capitol Street N.E., Room 9306, Washington D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208-0400. For a recording listing items stricken from or added to the meeting, call (202) 208-1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the item on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 969th Meeting—November 25, 1992, Regular Meeting (10:00 a.m.)

CAH-1.
Project No. 10813-002, Town of Summersville, West Virginia
CAH-2.
Project No. 1061-005, Pacific Gas and Electric Company
CAH-3.
Project No. 10825-001, Kittitas Reclamation District
CAH-4.
Project No. 11323-001, Blue Diamond Associates
CAH-5.
Project No. 3623-090, Youghiogheny Hydroelectric Authority
CAH-6.
Omitted
CAH-7.
Project No. 11195-002, Sunset Falls Limited Partnership
CAH-8.
Omitted
CAH-9.
Project No. 4885-035, Twin Falls Hydro Associates, Inc.
CAH-10.
Omitted
CAH-11.
Project No. 8289-011, River Electric Company, Inc.
CAH-12.
Omitted
CAE-13.
Project No. 1953-015, Consolidated Water Power Company

Consent Electric Agenda

CAE-1.
Docket No. ER92-723-000, Massachusetts Electric Company
CAE-2.
Docket No. ER92-850-000, Louis Dreyfus Energy Corporation
CAE-3.
Docket No. EG93-1-000, Commonwealth Atlantic Limited Partnership
CAE-4.
Docket No. QF92-54-002, Polk Power Partner, L.P.
Docket No. QF92-86-001, Lavair Cogeneration Limited Partnership
Docket No. QF92-123-001, AES WR Limited Partnership
CAE-5.
Docket Nos. ER87-122-003 and ER87-232-003, Boston Edison Company
CAE-6.
Omitted
CAE-7.
Docket Nos. ER92-595-001 and ER92-596-001, Pacific Gas and Electric Company
Docket No. ER92-626-001, Southern California Edison Company, Pacific Gas and Electric Company, San Diego Gas and Electric Company
Docket No. EL92-26-001, Transmission Agency of Northern California v. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas and Electric Company
CAE-8.
Docket No. ER92-764-001, New England Power Company
Docket No. ER92-766-001, Northeast Utilities Service Company
CAE-9.
Docket No. ER91-150-006 and ER91-570-005, Southern Company Services, Inc.

CAE–10.
Docket No. QF85–9–002, O.L.S. Energy-Agnews, Inc.
CAE–11.
Omitted.
CAE–12.
Docket Nos. ER91–620–000, 001, EL92–31–000 and 001, Central Maine Power Company
CAE–13.
Docket No. EL92–25–001, City of Albany, *et al.* v. Interstate Power Company
CAE–14.
Docket No. RM2–6–001, Deletions of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction Under Parts II and III of the Federal Power Act, the Public Utility Regulatory Policies Act of 1978, the Pacific Northwest Electric Power Planning and Conservation Act and Delegations from the Secretary of Energy

Consent Oil and Gas Agenda

CAG–1.
Docket Nos. RP93–15–000, RP92–134–000 and CP89–1721–000, Southern Natural Gas Company
CAG–2.
Docket No. RP92–166–003, Panhandle Eastern Pipe Line Company
CAG–3.
Docket No. RP91–189–005, Midwestern Gas Transmission Company
CAG–4.
Docket No. RP93–17–000, Tennessee Gas Pipeline Company
CAG–5.
Omitted
CAG–6.
Docket No. TA93–2–53–000, K N Energy, Inc.
CAG–7.
Omitted
CAG–8.
Docket Nos. RP88–44–028, 030, 031, 032, 033, and 037, El Paso Natural Gas Company
CAG–9.
Docket Nos. RP91–29–000, RP91–167–000, RP92–51–000 and RP92–182–000, Tennessee Gas Pipeline Company
CAG–10.
Docket Nos. TA92–1–59–002, 003, and 005, Northern Natural Gas Company
CAG–11.
Docket No. TM91–6–37–000, Northwest Pipeline Corporation
CAG–12.
Docket No. PR92–18–000, Delhi Gas Pipeline Corporation
CAG–13.
Omitted
CAG–14.
Docket Nos. TA92–2–20–003, TM92–12–20–001 and RP92–92–001, Algonquin Gas Transmission Company
CAG–15.
Docket Nos. TA92–1–63–003, TM92–5–63–002 and TQ92–7–63–002, Carnegie Natural Gas Company
CAG–16.
Docket No. TA91–1–24–005, Equitrans, Inc.
CAG–17.
Docket Nos. RP92–185–002, 001 and 000, El Paso Natural Gas Company
CAG–18.
Docket No. RP92–161–001, Penn-York Energy Corporation
CAG–19.
Docket Nos. RP89–137–008, RP89–219–006, TM90–1–37–004, RP90–50–006 and TM90–4–37–003, Northwest Pipeline Corporation
CAG–20.
Docket No. RP92–225–001, Texas Eastern Transmission Corporation
CAG–21.
Omitted
CAG–22.
Docket Nos. RP88–228–040, CP87–115–009, RP88–249–010, RP89–149–009, RP86–119–030, RP88–191–030, RP90–122–009, RP91–167–008, RP89–29–013, RP89–30–006, RP89–242–008, CP89–470–006, TA84–2–9–022, TA85–1–9–014, TA89–1–9–004, TA90–1–9–008, TA91–1–9–006, CP87–103–011, RP91–16–005, CP91–3135–005, RP91–210–013 and RP92–220–003, Tennessee Gas Pipeline Company
CAG–23.
Docket No. RP92–160–001, Tennessee Gas Pipeline Company
CAG–24.
Omitted
CAG–25.
Omitted
CAG–26.
Omitted
CAG–27.
Docket Nos. RP89–48–020 and 021, Transwestern Pipeline Company
CAG–28.
Docket No. ST90–267–002, Transok Gas Transmission Company (Successor to TEX/CON Gas Pipeline Company)
CAG–29.
Docket Nos. RP87–30–000 (Phase II) and RP90–69–000, (Phase A), Colorado Interstate Gas Company
CAG–30.
Docket Nos. RP91–161–010 and RS92–5–000, Columbia Gas Transmission Corporation

Docket Nos. RP91–160–008 and RS92–6–000, Columbia Gulf Transmission Company
CAG–31.
Docket No. RP91–232–000, Pacific Interstate Transmission Company v. El Paso Natural Gas Company
CAG–32.
Docket No. RS92–28–000, Algonquin Gas Transmission Company
CAG–33.
Docket No. CP89–1953–005, ANR Pipeline Company
CAG–34.
Docket No. CP89–2173–001, Arkla Energy Resources, a Division of Arkla, Inc. and Mississippi River Transmission Corporation

Docket No. CP89–2174–003, Arkla Energy Resources, a Division of Arkla, Inc.

Docket No. CP89–2195–001, ANR Pipeline Company

Docket No. RP91–65–009, Arkla Energy Resources, a Division of Arkla, Inc.
CAG–35.
Docket No. CP91–1798–002, Natural Gas Pipeline Company of America
CAG–36.
Omitted
CAG–37.
Omitted
CAG–38.
Omitted
CAG–39.
Docket No. CP92–166–001, Algonquin LNG, Inc. and Algonquin Gas Transmission Company
CAG–40.
Docket No. CP92–573–001, Transcontinental Gas Pipe Line Corporation
CAG–41.
Docket Nos. CP92–391–001, CP91–694–005, CP91–969–004 and CP92–62–007, CNG Transmission Corporation
CAG–42.
Docket No. CP92–491–001, CNG Transmission Corporation
CAG–43.
Docket No. CP90–2155–001, Southern Natural Gas Company
CAG–44.
Omitted
CAG–45.
Docket No. CP92–558–000, United Gas Pipe Line Company
CAG–46.
Docket No. CP92–351–000, Williams Natural Gas Company

Docket No. CP92–416–000, Trident NGL, Inc. and Oryx Energy Company
CAG–47.
Omitted
CAG–48.
Docket No. CP92–446–000, Pacific Interstate Transmission Company
CAG–49.
Docket No. RP93–14–000, Algonquin Gas Transmission Company
CAG–50.
Docket No. RP93–16–000, El Paso Natural Gas Company
CAG–51.
Docket Nos. RP85–177–097, 098, CP90–2154–003, RP93–13–000 and RP93–22–000, Texas Eastern Transmission Corporation
CAG–52.
Docket No. CP92–470–000, Colorado Interstate Gas Company
CAG–53.
Docket Nos. CP91–732–003 and CP88–332–024, Indicated Shippers v. El Paso Natural Gas Company
CAG–54.
Omitted

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Omitted

Miscellaneous Agenda

M–1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.

Docket No. RM91-11-004, Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations
Docket No. RM87-34-069, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol. Order on rehearing.

PR-2.
Docket No. RM87-5-011, Inquiry into Alleged Anticompetitive practices Related to Marketing Affiliates of Interstate Pipelines
Docket No. CP87-238-002, Ozark Gas Transmission System. Order on remand.

II. Restructuring Matters

RS-1.
Docket Nos. RS92-60-002, 003 and 005, El Paso Natural Gas Company. Order on capacity release filing.

III. Pipeline Certificate Matters

PC-1.
Omitted

PC-2.
Docket No. CP91-2704-001, Blue Lake Gas Storage Company
Docket No. CP91-2705-001, ANR Pipeline Company
Docket No. CP91-2730-000, ANR Storage Company. Order on requests for rehearing of May 1, 1992 order, authorizing the construction and operation of the Blue Lake Storage Field.

PC-3.
Docket No. RM92-9-003, Regulations Governing Blanket Marketer Sales Certificates. Whether to promulgate proposed regulations as a Final Rule.

Dated: November 18, 1992.

Lois D. Cashell,

Secretary.

[FR Doc. 92-28462 Filed 11-19-92; 12:52 am]
BILLING CODE 6717-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 57 FR 54279, Tuesday, November 17, 1992.

STATUS: Opening meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Thursday, November 12, 1992.

CHANGE IN THE MEETING: Time change.

An open meeting scheduled for Thursday, November 19, 1992, at 10:00 a.m., has been rescheduled for Thursday, November 19, 1992, at 9:30 a.m.

Commissioner Schapiro, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Steve Luparello at (202) 272-2100.

Dated: November 18, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-28533 Filed 11-19-92; 3:10 pm]
BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and exchange Commission will hold the following meetings during the week of November 21, 1992.

A closed meeting will be held on Monday, November 23, 1992, at 2:30 p.m. An open meeting will be held on Tuesday, November 24, 1992, at 10:00 a.m., in room 1C30.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) an (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Monday, November 23, 1992, at 2:30 p.m., will be:

Institution of injunctive actions.
Institution of administrative proceeding of an enforcement nature.
Settlement of injunctive action.
Settlement of administrative proceeding of an enforcement nature.
Opinions.

The subject matter of the open meeting schedule for Tuesday, November 24, 1992, at 10:00 a.m., will be:

Consideration of whether to adopt amendments to the net capital rule, Rule 15c3-1. The amendments would raise the minimum net capital required of registered broker-dealers. The amendments would also standardize the deductions in arriving at net capital for equity securities and would relieve broker-dealers of certain aggregate indebtedness charges. For further information, contract Roger G. Coffin at (202) 272-7375.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kaye Williams at (202) 272-2400.

Dated: November 19, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-28573 Filed 11-19-92; 4:03 pm]
BILLING CODE 8010-01-M

Monday
November 23, 1992

Federal Register

Part II

Reader Aids

Cumulative List of Public Laws—102d Congress, Second Session

CUMULATIVE LIST OF PUBLIC LAWS

This is the cumulative list of public laws for the 102d Congress, second session. The List of Public Laws will resume when bills are enacted into law during the 103d Congress, first session, which convenes on January 5, 1992. Any comments may be addressed to the Director, Office of the Federal Register, Washington, DC 20408.

Public Law	Bill Number	Approval Date	106 Stat.	Title	Price
102-244	H.R. 4095	Feb. 7	3	To increase the number of weeks for which benefits are payable under the Emergency Unemployment Compensation Act of 1991, and for other purposes.	$1.00
102-245	H.R. 1989	Feb. 14	7	American Technology Preeminence Act of 1991	$1.00
102-246	S. 1415	Feb. 18	31	To provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes.	$1.00
102-247	H.R. 2927	Feb. 24	33	Omnibus Insular Areas Act of 1992	$1.00
102-248	H.R. 543	Mar. 3	40	To establish the Manzanar National Historic Site in the State of California, and for other purposes.	$1.00
102-249	H.R. 476	Mar. 3	45	Michigan Scenic Rivers Act of 1991	$1.00
102-250	H.R. 355	Mar. 5	53	Reclamation States Emergency Drought Relief Act of 1991	$1.00
102-251	H.R. 3866	Mar. 9	60	To provide for the designation of the Flower Garden Banks National Marine Sanctuary	$1.00
102-252	H.J. Res. 395	Mar. 10	68	Designating February 6, 1992, as "National Women and Girls in Sports Day"	$1.00
102-253	H.J. Res. 350	Mar. 10	70	Designating March 1992 as "Irish-American Heritage Month"	$1.00
102-254	H.J. Res. 343	Mar. 11	71	To designate March 12, 1992, as "Girl Scouts of the United States of America 80th Anniversary Day".	$1.00
102-255	H.R. 4113	Mar. 12	72	To permit the transfer before the expiration of the otherwise applicable 60-day congressional review period of the obsolete training aircraft carrier U.S.S. Lexington to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorial.	$1.00
102-256	H.R. 2092	Mar. 12	73	Torture Victim Protection Act of 1991	$1.00
102-257	S.J. Res. 176	Mar. 17	75	To designate March 19, 1992, as "National Women in Agriculture Day"	$1.00
102-258	S. 996	Mar. 19	76	To authorize and direct the Secretary of the Interior to terminate a reservation of use and occupancy at the Buffalo National River; and for other purposes.	$1.00
102-259	S. 2184	Mar. 19	78	Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992.	$1.00
102-260	H.J. Res. 446	Mar. 20	85	Waiving certain enrollment requirements with respect to H.R. 4210 of the 102d Congress.	$1.00
102-261	S. 1467	Mar. 20	86	To designate the Federal Building and the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse".	$1.00
102-262	S. 1889	Mar. 20	87	To designate the Federal Building and the United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, as the "Ewing T. Kerr Federal Building and United States Courthouse".	$1.00
102-263	S.J. Res. 240	Mar. 20	88	Designating March 25, 1992 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".	$1.00
102-264	H.J. Res. 284	Mar. 26	89	To designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week".	$1.00
102-265	S. 2324	Mar. 26	90	To amend the Food Stamp Act of 1977 to make a technical correction relating to exclusions from income under the food stamp program, and for other purposes.	$1.00
102-266	H.J. Res. 456	Apr. 1	92	Making further continuing appropriations for the fiscal year 1992, and for other purposes	$1.00
102-267	H.J. Res. 272	Apr. 2	100	To proclaim March 20, 1992, as "National Agriculture Day"	$1.00
102-268	H.J. Res. 410	Apr. 13	102	Designating April 14, 1992, as "Education and Sharing Day, U.S.A."	$1.00
102-269	S.J. Res. 246	Apr. 15	104	To designate April 15, 1992 as "National Recycling Day"	$1.00
102-270	S.J. Res. 271	Apr. 16	106	Expressing the sense of the Congress regarding the peace process in Liberia and authorizing limited assistance to support this process.	$1.00
102-271	S. 606	Apr. 20	108	To amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes.	$1.00
102-272	H.R. 3686	Apr. 21	112	To amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina.	$1.00
102-273	H.R. 4449	Apr. 21	113	To authorize jurisdictions receiving funds for fiscal year 1992 under the HOME Investment Partnerships Act that are allocated for new construction to use the funds, at the discretion of the jurisdiction, for other eligible activities under such Act and to amend the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 to authorize local governments that have financed housing projects that have been provided a section 8 financial adjustment factor to use recaptured amounts available from refinancing of the projects for housing activities.	$1.00
102-274	S. 985	Apr. 21	115	Horn of Africa Recovery and Food Security Act	$1.00
102-275	S. 1743	Apr. 22	123	Arkansas Wild and Scenic Rivers Act of 1992	$1.00
102-276	H.R. 4572	Apr. 28	126	To direct the Secretary of Health and Human Services to grant a waiver of the requirement limiting the maximum number of individuals enrolled with a health maintenance organization who may be beneficiaries under the medicare or medicaid programs in order to enable the Dayton Area Health Plan, Inc., to continue to provide services through January 1994 to individuals residing in Montgomery County, Ohio, who are enrolled under a State plan for medical assistance under title XIX of the Social Security Act.	$1.00
102-277	H.J. Res. 402	Apr. 28	127	Approving the location of a memorial to George Mason	$1.00
102-278	S.J. Res. 174	May 9	128	Designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month".	$1.00
102-279	S.J. Res. 222	May 9	130	To designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians".	$1.00
102-280	H.J. Res. 430	May 11	132	To designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week".	$1.00

Public Law	Bill Number	Approval Date	106 Stat.	Title	Price
102-281	H.R. 3337	May 13	133	To require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes.	$1.00
102-282	H.R. 2454	May 13	149	Generic Drug Enforcement Act of 1992	$1.00
102-283	H.J. Res. 425	May 14	163	Designating May 10, 1992, as "Infant Mortality Awareness Day"	$1.00
102-284	S.J. Res. 251	May 14	164	To designate the month of May 1992 as "National Huntington's Disease Awareness Month".	$1.00
102-285	H.R. 2763	May 18	166	National Geologic Mapping Act of 1992	$1.00
102-286	H.R. 4184	May 18	173	To designate the Department of Veterans Affairs Medical Center located in Northampton, Massachusetts, as the "Edward P. Boland Department of Veterans Affairs Medical Center".	$1.00
102-287	H.J. Res. 466	May 18	174	Designating April 26, 1992, through May 2, 1992, as "National Crime Victims' Rights Week".	$1.00
102-288	H.J. Res. 388	May 19	175	Designating the month of May 1992, as "National Foster Care Month"	$1.00
102-289	H.R. 4774	May 20	176	To provide flexibility to the Secretary of Agriculture to carry out food assistance programs in certain countries.	$1.00
102-290	H.J. Res. 371	May 20	177	Designating May 31, 1992, through June 6, 1992, as a "Week for the National Observance of the Fiftieth Anniversary of World War II".	$1.00
102-291	S. 2378	May 20	178	To amend title 38, United States Code, to extend certain authorities relating to the administration of veterans laws, and for other purposes.	$1.00
102-292	S. 1182	May 26	181	Fishlake National Forest Enlargement Act	$1.00
102-293	S. 452	May 27	183	To authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes.	$1.00
102-294	S. 749	May 27	185	To rename and expand the boundaries of the Mound City Group National Monument in Ohio.	$1.00
102-295	S. 838	May 28	187	Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992	$1.00
102-296	S.J. Res. 254	May 28	215	Commending the New York Stock Exchange on the occasion of its bicentennial	$1.00
102-297	S. 2569	June 2	216	To provide for the temporary continuation in office of the current Deputy Security Advisor in a flag officer grade in the Navy.	$1.00
102-298	H.R. 4990	June 4	217	Rescinding certain budget authority	$1.00
102-299	S. 870	June 9	236	Golden Gate National Recreation Area Addition Act of 1992	$1.00
102-300	S. 2783	June 16	238	Medical Device Amendments of 1992	$1.00
102-301	H.R. 2556	June 19	242	Los Padres Condor Range and River Protection Act	$1.00
102-302	H.R. 5132	June 22	246	Dire Emergency Supplemental Appropriations Act, 1992, for Disaster Assistance To Meet Urgent Needs Because of Calamities Such as Those Which Occurred in Los Angeles and Chicago.	$1.00
102-303	H.J. Res. 445	June 23	255	Designating June 1992 as "National Scleroderma Awareness Month"	$1.00
102-304	H.R. 1642	June 23	256	Palo Alto Battlefield National Historic Site Act of 1991	$1.00
102-305	H.J. Res. 442	June 23	259	To designate July 5, 1992, through July 11, 1992, as "National Awareness Week for Life-Saving Techniques".	$1.00
102-306	H.J. Res. 517	June 26	260	To provide for a settlement of the railroad labor-management disputes between certain railroads and certain of their employees.	$1.00
102-307	S. 756	June 26	264	Copyright Amendments Act of 1992	$1.00
102-308	S. 2703	June 26	273	To authorize the President to appoint General Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration.	$1.00
102-309	H.J. Res. 470	June 30	275	To designate the month of September 1992 as "National Spina Bifida Awareness Month".	$1.00
102-310	S. 2905	July 1	276	To provide a 4-month extension of the transition rule for separate capitalization of savings associations' subsidiaries.	$1.00
102-311	H.R. 4548	July 2	277	International Peacekeeping Act of 1992	$1.00
102-312	H.R. 3041	July 2	278	To designate the Federal building located at 1520 Market Street, St. Louis, Missouri, as the "L. Douglas Abram Federal Building".	$1.00
102-313	H.R. 2818	July 2	279	To designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal Building", and for other purposes.	$1.00
102-314	H.R. 3711	July 2	280	WIC Farmers' Market Nutrition Act of 1992	$1.00
102-315	H.J. Res. 499	July 2	286	Designating July 2, 1992, as "National Literacy Day"	$1.00
102-316	H.J. Res. 509	July 2	288	To extend through September 30, 1992, the period in which there remains available for obligation certain amounts appropriated for the Bureau of Indian Affairs for the school operations costs of Bureau-funded schools.	$1.00
102-317	S. 2901	July 2	289	To direct the Secretary of Health and Human Services to extend the waiver granted to the Tennessee Primary Care Network of the enrollment mix requirement under the medicaid program.	$1.00
102-318	H.R. 5260	July 3	290	Unemployment Compensation Amendments of 1992	$1.00
102-319	H.J. Res. 459	July 8	319	Designating the week beginning July 26, 1992 as "Lyme Disease Awareness Week"	$1.00
102-320	S. 1254	July 10	321	To increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes.	$1.00
102-321	S. 1306	July 10	323	ADAMHA Reorganization Act	$3.50
102-322	H.R. 5412	July 19	443	To authorize the transfer of certain naval vessels to Greece and Taiwan	$1.00
102-323	S.J. Res. 324	July 20	445	To commend the NASA Langley Research Center on the celebration of its 75th anniversary on July 17, 1992.	$1.00
102-324	S. 2780	July 22	447	To amend the Food Security Act of 1985 to remove certain easement requirements under the conservation reserve program, and for other purposes.	$1.00
102-325	S. 1150	July 23	448	Higher Education Amendments of 1992	$12.00
102-326	H.R. 158	July 23	843	To designate the building in Hiddenite, North Carolina, which houses the primary operations of the United States Postal Service as the "Zora Leah S. Thomas Post Office Building".	$1.00
102-327	H.R. 4505	July 23	844	To designate the facility of the United States Postal Service located at 20 South Montgomery Street in Trenton, New Jersey, as the "Arthur J. Holland United States Post Office Building".	$1.00
102-328	H.R. 479	Aug. 3	845	To amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System.	$1.00

Public Law	Bill Number	Approval Date	106 Stat.	Title	Price
102-329	H.R. 5343	Aug. 3	847	To make technical amendments to the Fair Packaging and Labeling Act with respect to its treatment of the SI metric system, and for other purposes.	$1.00
102-330	S. 2938	Aug. 3	849	To authorize the Architect of the Capitol to acquire certain property	$1.00
102-331	S.J. Res. 92	Aug. 3	851	To designate July 28, 1992, as "Buffalo Soldiers Day"	$1.00
102-332	S.J. Res. 295	Aug. 3	853	Designating September 10, 1992, as "National D.A.R.E. Day"	$1.00
102-333	S.J. Res. 310	Aug. 4	855	To designate August 1, 1992, as "Helsinki Human Rights Day"	$1.00
102-334	S. 2641	Aug. 6	858	To partially restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1991.	$1.00
102-335	H.R. 3836	Aug. 7	859	Pacific Yew Act	$1.00
102-336	H.R. 5059	Aug. 7	864	To extend the boundaries of the grounds of the National Gallery of Art to include the National Sculpture Garden.	$1.00
102-337	S. 2917	Aug. 7	865	To amend the National School Lunch Act to authorize the Secretary of Agriculture to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute, and for other purposes.	$1.00
102-338	H.R. 4026	Aug. 11	866	Zuni River Watershed Act of 1992	$1.00
102-339	H.R. 5566	Aug. 11	869	To provide additional time to negotiate settlement of a land dispute in South Carolina	$1.00
102-340	S.J. Res. 270	Aug. 12	871	To designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day".	$1.00
102-341	H.R. 5487	Aug. 14	873	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1993.	$1.25
102-342	S. 2759	Aug. 14	911	Child Nutrition Amendments of 1992	$1.00
102-343	S. 959	Aug. 17	915	Thomas Jefferson Commemoration Commission Act	$1.00
102-344	H.R. 4312	Aug. 26	921	Voting Rights Language Assistance Act of 1992	$1.00
102-345	H.R. 5481	Aug. 26	923	FAA Civil Penalty Administrative Assessment Act of 1992	$1.00
102-346	S. 544	Aug. 26	928	Animal Enterprise Protection Act of 1992	$1.00
102-347	S. 807	Aug. 26	930	To permit Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years.	$1.00
102-348	S. 1770	Aug. 26	931	To convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes.	$1.00
102-349	S. 1963	Aug. 26	933	To amend section 992 of title 28, United States Code, to provide a member of the United States Sentencing Commission whose term has expired may continue to serve until a successor is appointed or until the expiration of the next session of Congress.	$1.00
102-350	S. 2079	Aug. 26	934	Marsh-Billings National Historical Park Establishment Act	$1.00
102-351	S. 3001	Aug. 26	937	To amend the Food Stamp Act of 1977 to prevent a reduction in the adjusted cost of the thrifty food plan during fiscal year 1993, and for other purposes.	$1.00
102-352	S. 3112	Aug. 26	938	Public Health Service Act Technical Amendments Act	$1.00
102-353	S. 3163	Aug. 26	941	Prescription Drug Amendments of 1992	$1.00
102-354	H.R. 2549	Aug. 26	944	Administrative Procedure Technical Amendments Act of 1991	$1.00
102-355	H.R. 2926	Aug. 26	947	To amend the Act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East Saint Louis portion of the Memorial, and for other purposes.	$1.00
102-356	H.R. 2977	Aug. 26	949	Public Telecommunications Act of 1992	$1.00
102-357	H.R. 3795	Aug. 26	958	To amend title 28, United States Code, to establish 3 divisions in the Central Judicial District of California.	$1.00
102-358	H.R. 4437	Aug. 26	960	To authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the United States Army Corps of Engineers under the authority of Public Law 100-202.	$1.00
102-359	H.R. 5560	Aug. 26	962	To extend for one year the National Commission on Time and Learning, and for other purposes.	$1.00
102-360	H.R. 5623	Aug. 26	964	To waive the period of congressional review for certain District of Columbia Acts	$1.00
102-361	H.R. 5688	Aug. 26	965	Bankruptcy Judgeship Act of 1992	$1.00
102-362	H.J. Res. 411	Aug. 26	967	To designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week".	$1.00
102-363	H.J. Res. 507	Aug. 26	969	To approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania.	$1.00
102-364	H.J. Res. 492	Sept. 2	970	Designating September 1992 as "Childhood Cancer Month"	$1.00
102-365	H.R. 2607	Sept. 3	972	Rail Safety Enforcement and Review Act	$1.00
102-366	H.R. 4111	Sept. 4	986	Small Business Credit and Business Opportunity Enhancement Act of 1992	$1.25
102-367	H.R. 3033	Sept. 7	1021	Job Training Reform Amendments of 1992	$2.75
102-368	H.R. 5620	Sept. 23	1117	Dire Emergency Supplemental Appropriations Act, 1992, Including Disaster Assistance To Meet the Present Emergencies Arising From the Consequences of Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and Other Natural Disasters, and Additional Assistance to Distressed Communities.	$1.50
102-369	H.J. Res. 413	Sept. 24	1163	To designate September 13, 1992, as "Commodore John Barry Day"	$1.00
102-370	S.J. Res. 303	Sept. 24	1165	To designate October 1992 as "National Breast Cancer Awareness Month"	$1.00
102-371	H.R. 4551	Sept. 27	1167	Civil Liberties Act Amendments of 1992	$1.00
102-372	S. 680	Sept. 30	1170	Tourism Policy and Export Promotion Act of 1992	$1.00
102-373	S.J. Res. 337	Sept. 30	1184	Designating September 18, 1992, as "National POW/MIA Recognition Day", and authorizing display of the National League of Families POW/MIA flag.	$1.00
102-374	S. 1607	Sept. 30	1186	Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992	$1.00
102-375	H.R. 2967	Sept. 30	1195	Older Americans Act Amendments of 1992	$3.25
102-376	H.J. Res. 553	Oct. 1	1311	Making continuing appropriations for the fiscal year 1993, and for other purposes	$1.00
102-377	H.R. 5373	Oct. 2	1315	Energy and Water Development Appropriations Act, 1993	$1.00
102-378	H.R. 2850	Oct. 2	1346	Technical and Miscellaneous Civil Service Amendments Act of 1992	$1.00
102-379	H.R. 5126	Oct. 5	1362	Civil War Battlefield Commemorative Coin Act of 1992	$1.00
102-380	H.R. 5428	Oct. 5	1368	Military Construction Appropriations Act, 1993	$1.00
102-381	H.R. 5503	Oct. 5	1374	Department of the Interior and Related Agencies Appropriations Act, 1993	$1.50
102-382	H.R. 6056	Oct. 5	1422	Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes.	$1.00
102-383	S 1731	Oct. 5	1448	United States-Hong Kong Policy Act of 1992	$1.00

Public Law	Bill Number	Approval Date	106 Stat.	Title	Price
102-384	S. 3175	Oct. 5	1455	National and Community Service Technical Amendment Act of 1992	$1.00
102-385	S. 12	Oct. 5	1460	Cable Television Consumer Protection and Competition Act of 1992	$1.50
102-386	H.R. 2194	Oct. 6	1505	To amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities.	$1.00
102-387	H.J. Res. 560	Oct. 6	1519	Waiving certain enrollment requirements with respect to any appropriation bill for the remainder of the One Hundred Second Congress.	$1.00
102-388	H.R. 5518	Oct. 6	1520	Department of Transportation and Related Agencies Appropriations Act, 1993	$1.50
102-389	H.R. 5679	Oct. 6	1571	Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993.	$1.50
102-390	H.R. 3654	Oct. 6	1620	To provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the United States Olympic Committee, to reauthorize and reform the United States Mint, and for other purposes.	$1.00
102-391	H.R. 5368	Oct. 6	1633	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993	$2.25
102-392	H.R. 5427	Oct. 6	1703	Legislative Branch Appropriations Act, 1993	$1.00
102-393	H.R. 5488	Oct. 6	1729	Treasury, Postal Service, and General Government Appropriations Act, 1993	$2.00
102-394	H.R. 5677	Oct. 6	1792	Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993.	$1.25
102-395	H.R. 5678	Oct. 6	1828	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993.	$1.50
102-396	H.R. 5504	Oct. 6	1876	Department of Defense Appropriations Act, 1993	$2.25
102-397	S. 1766	Oct. 6	1949	To add to the area in which the Capitol Police have law enforcement authority, and for other purposes.	$1.00
102-398	S.J. Res. 23	Oct. 6	1953	To consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.	$1.00
102-399	H.R. 5058	Oct. 7	1954	To authorize appropriations for the American Folklife Center for fiscal year 1993	$1.00
102-400	H.R. 5399	Oct. 7	1955	United States Commission on Civil Rights Authorization Act of 1992	$1.00
102-401	H.R. 5630	Oct. 7	1956	Head Start Improvement Act of 1992	$1.00
102-402	H.R. 1435	Oct. 9	1961	Rocky Mountain Arsenal National Wildlife Refuge Act of 1992	$1.00
102-403	H.R. 3379	Oct. 9	1968	To amend section 594 of title 5, United States Code, relating to the authorities of the Administrative Conference.	$1.00
102-404	S. 1216	Oct. 9	1969	Chinese Student Protection Act of 1992	$1.00
102-405	S. 2344	Oct. 9	1972	Veterans' Medical Programs Amendments of 1992	$1.00
102-406	H.R. 2448	Oct. 12	1986	Benjamin Franklin National Memorial Commemorative Medal and Fire Service Bill of Rights Act.	$1.00
102-407	H.R. 1628	Oct. 13	1991	To authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes.	$1.00
102-408	H.R. 3508	Oct. 13	1992	Health Professions Education Extension Amendments of 1992	$3.00
102-409	H.R. 4178	Oct. 13	2092	DES Education and Research Amendments of 1992	$1.00
102-410	H.R. 5673	Oct. 13	2094	Agency for Health Care Policy and Research Reauthorization Act of 1992	$1.00
102-411	H.R. 5925	Oct. 14	2102	EEOC Education, Technical Assistance, and Training Revolving Fund Act of 1992	$1.00
102-412	H.J. Res. 320	Oct. 14	2104	Authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War..	$1.00
102-413	H.J. Res. 542	Oct. 14	2105	Designating the week beginning November 8, 1992, as "Hire a Veteran Week"	$1.00
102-414	S. 3195	Oct. 14	2106	World War II 50th Anniversary Commemorative Coins Act	$1.00
102-415	H.R. 3157	Oct. 14	2112	Alaska Land Status Technical Corrections Act of 1992	$1.00
102-416	H.R. 2144	Oct. 14	2131	Advisory Council on California Indian Policy Act of 1992	$1.00
102-417	H.R. 2324	Oct. 14	2138	Incarcerated Witness Fees Act of 1991	$1.00
102-418	S.J. Res. 287	Oct. 14	2139	To designate the week of October 4, 1992, through October 10, 1992, as "Mental Illness Awareness Week".	$1.00
102-419	H.R. 2321	Oct. 16	2141	Dayton Aviation Heritage Preservation Act of 1992	$1.00
102-420	H.R. 5258	Oct. 16	2149	An act to provide for the withdrawal of most favored nation status from Serbia and Montenegro and to provide for restoration of such status if certain conditions are fulfilled.	$1.00
102-421	H.R. 5483	Oct. 16	2151	Education of the Deaf Act Amendments of 1992	$1.00
102-422	S. 1880	Oct. 16	2167	To amend the District of Columbia Spouse Equity Act of 1988	$1.00
102-423	S. 3007	Oct. 16	2168	To authorize financial assistance for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center.	$1.00
102-424	S.J. Res. 305	Oct. 16	2170	To designate October 1992 as "Polish-American Heritage Month"	$1.00
102-425	S.J. Res. 319	Oct. 16	2172	To designate the second Sunday in October of 1992 as "National Children's Day"	$1.00
102-426	H.R. 4016	Oct. 19	2174	Community Environmental Response Facilitation Act	$1.00
102-427	H.R. 3665	Oct. 21	2179	Little River Canyon National Preserve Act of 1992	$1.00
102-428	H.R. 5237	Oct. 21	2183	Rural Electrification Administration Improvement Act of 1992	$1.00
102-429	H.R. 5739	Oct. 21	2186	Export Enhancement Act of 1992	$1.00
102-430	H.R. 1216	Oct. 23	2208	Indiana Dunes National Lakeshore Access and Enhancement Act	$1.00
102-431	H.R. 2181	Oct. 23	2211	To permit the Secretary of the Interior to acquire by exchange lands in the Cuyahoga National Recreation Area that are owned by the State of Ohio.	$1.00
102-432	H.R. 2431	Oct. 23	2212	To amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.	$1.00
102-433	H.R. 3118	Oct. 23	2214	To designate the Federal Office Building Number 9 located at 1900 E Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building"	$1.00
102-434	H.R. 3818	Oct. 23	2215	To designate the building located at 80 North Hughey Avenue in Orlando, Florida, as the "George C. Young United States Courthouse and Federal Building".	$1.00
102-435	H.R. 4281	Oct. 23	2216	To designate the Federal building and courthouse to be constructed at 5th and Ross Streets in Santa Ana, California, as the "Ronald Reagan Federal Building and Courthouse".	$1.00
102-436	H.R. 4489	Oct. 23	2217	To provide for a land exchange with the city of Tacoma, Washington	$1.00
102-437	H.R. 4539	Oct. 23	2221	To designate the general mail facility of the United States Postal Service in Gulfport, Mississippi, as the "Larkin I. Smith General Mail Facility" and the building of the United States Postal Service in Poplarville, Mississippi, as the "Larkin I. Smith Post Office Building".	$1.00

Public Law	Bill Number	Approval Date	106 Stat.	Title	Price
102-438	H.R. 4771	Oct. 23	2222	To designate the facility under construction for use by the United States Postal Service at FM 1098 Loop in Prairie View, Texas, as the "Esel D. Bell Post Office Building".	$1.00
102-439	H.R. 4999	Oct. 23	2223	To authorize additional appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House.	$1.00
102-440	H.R. 5013	Oct. 23	2224	To promote the conservation of wild exotic birds, to provide for the Great Lakes Fish and Wildlife Tissue Bank, to reauthorize the Fish and Wildlife Conservation Act of 1980, to reauthorize the African Elephant Conservation Act, and for other purposes.	$1.00
102-441	H.R. 5122	Oct. 23	2237	Jicarilla Apache Tribe Water Rights Settlement Act	$1.00
102-442	H.R. 5222	Oct. 23	2243	To designate the Federal building and United States courthouse located at 204 South Main Street in South Bend, Indiana, as the "Robert A. Grant Federal Building and United States Courthouse".	$1.00
102-443	H.R. 5291	Oct. 23	2244	To provide for the temporary use of certain lands in the city of South Gate, California, for elementary school purposes.	$1.00
102-444	H.R. 5328	Oct. 23	2245	To amend title 35, United States Code, with respect to the late payment of maintenance fees.	$1.00
102-445	H.R. 5431	Oct. 23	2246	To designate the Federal building located at 200 Federal Plaza in Paterson, New Jersey, as the "Robert A. Roe Federal Building".	$1.00
102-446	H.R. 5432	Oct. 23	2247	To designate the Federal building and United States courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, Arkansas, as the "John Paul Hammerschmidt Federal Building and United States Courthouse".	$1.00
102-447	H.R. 5453	Oct. 23	2248	To designate the Central Square facility of the United States Postal Service in Cambridge, Massachusetts, as the "Clifton Merriman Post Office Building".	$1.00
102-448	H.R. 5479	Oct. 23	2249	To designate the facility of the United States Postal Service located at 1100 Wythe Street in Alexandria, Virginia, as the "Helen Day United States Post Office Building".	$1.00
102-449	H.R. 5491	Oct. 23	2250	To designate the Department of Veterans Affairs medical center in Marlin, Texas, as the "Thomas T. Connally Department of Veterans Affairs Medical Center".	$1.00
102-450	H.R. 5572	Oct. 23	2251	To designate May of each year as "Asian/Pacific American Heritage Month"	$1.00
102-451	H.R. 5575	Oct. 23	2253	To authorize certain additional uses of the Library of Congress Special Facilities Center, and for other purposes.	$1.00
102-452	H.R. 5602	Oct. 23	2255	Granting the consent of the Congress to the Interstate Rail Passenger Network Compact.	$1.00
102-453	H.R. 5605	Oct. 23	2258	Cedar River Watershed Land Exchange Act of 1992	$1.00
102-454	H.R. 5751	Oct. 23	2262	To provide for the distribution within the United States of certain materials prepared by the United States Information Agency.	$1.00
102-455	H.R. 5831	Oct. 23	2263	To designate the Federal Building located at Main and Church Streets in Victoria, Texas, as the "Martin Luther King, Jr. Federal Building".	$1.00
102-456	H.R. 6000	Oct. 23	2264	To redesignate Springer Mountain National Recreation Area as "Ed Jenkins National Recreation Area".	$1.00
102-457	H.R. 6049	Oct. 23	2265	Congressional Award Act Amendments of 1992	$1.00
102-458	H.R. 6072	Oct. 23	2267	To direct expedited negotiated settlement of the land rights of the Kenai Natives Association, Inc., under section 14(h)(3) of the Alaska Native Claims Settlement Act, by directing land acquisition and exchange negotiations by the Secretary of the Interior and certain Alaska Native corporations involving lands and interests in lands held by the United States and such corporations.	$1.00
102-459	H.R. 6165	Oct. 23	2268	To amend certain provisions of law relating to establishment, in the District of Columbia or its environs, of a memorial to honor Thomas Paine.	$1.00
102-460	H.R. 6179	Oct. 23	2270	To amend the Wild and Scenic Rivers Act	$1.00
102-461	H.R. 6184	Oct. 23	2273	To amend the National Trails System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail.	$1.00
102-462	H.J. Res. 353	Oct. 23	2274	Designating the week beginning January 3, 1993, as "Braille Literacy Week"	$1.00
102-463	H.J. Res. 399	Oct. 23	2276	Designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week".	$1.00
102-464	H.J. Res. 457	Oct. 23	2277	Designating January 16, 1993, as "Religious Freedom Day"	$1.00
102-465	H.J. Res. 467	Oct. 23	2279	Designating October 24, 1992, through November 1, 1992, as "National Red Ribbon Week for a Drug-Free America".	$1.00
102-466	H.J. Res. 471	Oct. 23	2281	Designating October 14, 1992, as "National Occupational Therapy Day"	$1.00
102-467	H.J. Res. 484	Oct. 23	2283	Designating the week beginning February 14, 1993, as "National Visiting Nurse Associations Week".	$1.00
102-468	H.J. Res. 489	Oct. 23	2285	Designating February 21, 1993, through February 27, 1993, as "American Wine Appreciation Week", and for other purposes.	$1.00
102-469	H.J. Res. 500	Oct. 23	2287	Designating March 1993 as "Irish-American Heritage Month"	$1.00
102-470	H.J. Res. 520	Oct. 23	2289	To designate the month of October 1992 as "Country Music Month"	$1.00
102-471	H.J. Res. 523	Oct. 23	2290	Designating October 8, 1992, as "National Firefighters Day"	$1.00
102-472	H.J. Res. 529	Oct. 23	2291	Supporting the planting of 500 redwood trees from California in Spain in commemoration of the quincentenary of the voyage of Christopher Columbus and designating the trees as a gift to the people of Spain.	$1.00
102-473	H.J. Res. 543	Oct. 23	2293	Designating November 30, 1992, through December 6, 1992, as "National Education First Week".	$1.00
102-474	H.J. Res. 547	Oct. 23	2295	Designating May 2, 1993, through May 8, 1993, as "National Walking Week"	$1.00
102-475	H.J. Res. 563	Oct. 23	2296	Providing for the convening of the first session of the One Hundred Third Congress	$1.00
102-476	S. 1146	Oct. 23	2297	Scientific and Advanced-Technology Act of 1992	$1.00
102-477	S. 1530	Oct. 23	2302	Indian Employment, Training and Related Services Demonstration Act of 1992	$1.00
102-478	S. 2625	Oct. 23	2307	To designate the United States courthouse being constructed at 400 Cooper Street in Camden, New Jersey, as the "Mitchell H. Cohen United States Courthouse".	$1.00
102-479	S. 2661	Oct. 23	2308	To authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson.	$1.00
102-480	S. 2834	Oct. 23	2310	To designate the United States Post Office Building located at 100 Main Street, Millsboro, Delaware, as the "John J. Williams Post Office Building".	$1.00
102-481	S.J. Res. 166	Oct. 23	2311	Designating the week of October 4 through 10, 1992, as "National Customer Service Week".	$1.00
102-482	S.J. Res. 218	Oct. 23	2312	Designating the calendar year, 1993, as the "Year of American Craft: A Celebration of the Creative Work of the Hand".	$1.00

Public Law	Bill Number	Approval Date	106 Stat.	Title	Price
102-483	S.J. Res. 252	Oct. 23	2314	Designating the week of April 18 through 24, 1993, as "National Credit Education Week".	$1.00
102-484	H.R. 5006	Oct. 23	2315	National Defense Authorization Act for Fiscal Year 1993	$13.00
102-485	H.R. 6050	Oct. 23	2771	Depository Institutions Disaster Relief Act of 1992	$1.00
102-486	H.R. 776	Oct. 24	2776	Energy Policy Act of 1992	$11.00
102-487	H.R. 2263	Oct. 24	3134	To amend chapter 45 of title 5, United States Code, to authorize awards for cost savings disclosures.	$1.00
102-488	H.R. 2896	Oct. 24	3135	Minute Man National Historical Park Amendments of 1991	$1.00
102-489	H.R. 3638	Oct. 24	3138	Koniag Lands Conveyance Amendments of 1991	$1.00
102-490	H.R. 3673	Oct. 24	3142	Membrane Processes Research Act of 1992	$1.00
102-491	H.R. 4398	Oct. 24	3144	Federal Reserve Bank Branch Modernization Act	$1.00
102-492	H.R. 4412	Oct. 24	3145	To amend title 17, United States Code, relating to fair use of copyrighted works	$1.00
102-493	H.R. 4773	Oct. 24	3146	Fertility Clinic Success Rate and Certification Act of 1992	$1.00
102-494	H.R. 4841	Oct. 24	3153	Granting the consent of the Congress to the New Hampshire-Maine Interstate School Compact.	$1.00
102-495	H.R. 4844	Oct. 24	3173	Elwha River Ecosystem and Fisheries Restoration Act	$1.00
102-496	H.R. 5095	Oct. 24	3180	Intelligence Authorization Act for Fiscal Year 1993	$2.25
102-497	H.R. 5688	Oct. 24	3255	To make technical amendments to certain Federal Indian statutes	$1.00
102-498	H.R. 6014	Oct. 24	3263	To designate certain land in the State of Missouri owned by the United States and administered by the Secretary of Agriculture as part of the Mark Twain National Forest.	$1.00
102-499	H.R. 6047	Oct. 24	3264	To amend the United States Information and Educational Exchange Act of 1948, the Foreign Service Act of 1980, and other provisions of law to make certain changes in administrative authorities.	$1.00
102-500	H.R. 6164	Oct. 24	3267	To amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration, and other services necessary for the John F. Kennedy Center for the Performing Arts.	$1.00
102-501	H.R. 6183	Oct. 24	3268	Federally Supported Health Centers Assistance Act of 1992	$1.00
102-502	H.J. Res. 271	Oct. 24	3273	Authorizing the Go For Broke National Veterans Association Foundation to establish a memorial in the District of Columbia or its environs to honor Japanese American patriotism in World War II.	$1.00
102-503	H.J. Res. 409	Oct. 24	3275	Designating January 16, 1993, as "National Good Teen Day"	$1.00
102-504	H.J. Res. 429	Oct. 24	3276	Designating May 2, 1993, through May 8, 1993, as "Be Kind to Animals and National Pet Week".	$1.00
102-505	H.J. Res. 458	Oct. 24	3278	Designating the week beginning October 25, 1992, as "World Population Awareness Week".	$1.00
102-506	S. 1145	Oct. 24	3280	Office of Government Ethics Amendments of 1992	$1.00
102-507	S. 1577	Oct. 24	3281	Alzheimer's Disease Research, Training, and Education Amendments of 1992	$1.00
102-508	S. 1583	Oct. 24	3289	Pipeline Safety Act of 1992	$1.00
102-509	S. 2201	Oct. 24	3316	Soviet Scientists Immigration Act of 1992	$1.00
102-510	S. 2322	Oct. 24	3318	Veterans' Compensation Cost-of-Living Adjustment Act of 1992	$1.00
102-511	S. 2532	Oct. 24	3320	Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act).	$1.50
102-512	S. 2875	Oct. 24	3363	Children's Nutrition Assistance Act of 1992	$1.00
102-513	S. 3224	Oct. 24	3370	To designate the United States Courthouse to be constructed in Fargo, North Dakota, as the "Quentin N. Burdick United States Courthouse".	$1.00
102-514	S. 3279	Oct. 24	3371	To extend the authorization of use of official mail in the location and recovery of missing children, and for other purposes.	$1.00
102-515	S. 3312	Oct. 24	3372	Cancer Registries Amendment Act	$1.00
102-516	S.J. Res. 304	Oct. 24	3378	Designating January 3, 1993, through January 9, 1993, as "National Law Enforcement Training Week".	$1.00
102-517	S.J. Res. 309	Oct. 24	3380	Designating the week beginning November 8, 1992, as "National Women Veterans Recognition Week".	$1.00
102-518	S.J. Res. 318	Oct. 24	3382	Designating November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day".	$1.00
102-519	H.R. 4542	Oct. 25	3384	Anti Car Theft Act of 1992	$1.00
102-520	H.R. 5862	Oct. 25	3402	To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to ensure an equitable and timely distribution of benefits to public safety officers.	$1.00
102-521	S. 1002	Oct. 25	3403	Child Support Recovery Act of 1992	$1.00
102-522	H.R. 2042	Oct. 26	3410	Fire Administration Authorization Act of 1992	$1.00
102-523	H.R. 5419	Oct. 26	3425	International Dolphin Conservation Act of 1992	$1.00
102-524	S. 2044	Oct. 26	3434	Native American Languages Act of 1992	$1.00
102-525	S. 2890	Oct. 26	3438	To provide for the establishment of the Brown v. Board of Education National Historical Site in the State of Kansas, and for other purposes.	$1.00
102-526	S. 3006	Oct. 26	3443	President John F. Kennedy Assassination Records Collection Act of 1992	$1.00
102-527	H.R. 1252	Oct. 27	3459	Battered Women's Testimony Act of 1992	$1.00
102-528	H.R. 1253	Oct. 27	3461	To amend the State Justice Institute Act of 1984 to carry out research, and develop judicial training curricula, relating to child custody litigation.	$1.00
102-529	H.R. 2660	Oct. 27	3463	To authorize appropriations for the United States Holocaust Memorial Council, and for other purposes.	$1.00
102-530	H.R. 3475	Oct. 27	3465	Women in Apprenticeship and Nontraditional Occupations Act	$1.00
102-531	H.R. 3635	Oct. 27	3469	Preventive Health Amendments of 1992	$1.25
102-532	H.R. 4059	Oct. 27	3509	Enterprise for the Americas Initiative Act of 1992	$1.00
102-533	H.R. 4250	Oct. 27	3515	Amtrak Authorization and Development Act	$1.00
102-534	H.R. 5716	Oct. 27	3524	To extend for two years the authorizations of appropriations for certain programs under title I of the Omnibus Crime Control and Safe Streets Act of 1968.	$1.00
102-535	H.R. 5763	Oct. 27	3526	To provide equitable treatment to producers of sugarcane subject to proportionate shares.	$1.00
102-536	H.R. 5853	Oct. 27	3528	To designate segments of the Great Egg Harbor River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System.	$1.00
102-537	H.R. 6022	Oct. 27	3531	Ted Weiss Child Support Enforcement Act of 1992	$1.00
102-538	H.R. 6180	Oct. 27	3533	Telecommunications Authorization Act of 1992	$1.00

Public Law	Bill Number	Approval Date	106 Stat.	Title	Price
102-539	H.R. 6182	Oct. 27	3547	Mammography Quality Standards Act of 1992	$1.00
102-540	H.J. Res. 503	Oct. 27	3563	Acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 23, 1992, as "National Military Families Recognition Day".	$1.00
102-541	S. 225	Oct. 27	3565	To expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia.	$1 00
102-542	S. 759	Oct. 27	3567	Trademark Remedy Clarification Act	$1.00
102-543	S. 1664	Oct. 27	3569	To establish the Keweenaw National Historical Park, and for other purposes	$1.00
102-544	S. 2964	Oct. 27	3576	Granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority.	$1.00
102-545	S. 3134	Oct. 27	3586	Ready to Learn Act	$1.00
102-546	H.R. 707	Oct. 28	3590	Futures Trading Practices Act of 1992	$1.50
102-547	H.R. 939	Oct. 28	3633	Veterans Home Loan Program Amendments of 1992	$1.00
102-548	H.R. 3598	Oct. 28	3646	Intermodal Safe Container Transportation Act of 1992	$1.00
102-549	H.R. 4996	Oct. 28	3651	Jobs Through Exports Act of 1992	$1.00
102-550	H.R. 5334	Oct. 28	3672	Housing and Community Development Act of 1992	$13.00
102-551	H.R. 5954	Oct. 28	4098	An Act to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to improve health care services and educational services through telecommunications, and for other purposes.	$1.00
102-552	H.R. 6125	Oct. 28	4102	Farm Credit Banks and Associations Safety and Soundness Act of 1992	$1.25
102-553	H.R. 6128	Oct. 28	4140	To amend the United States Warehouse Act to provide for the use of electronic cotton warehouse receipts, and for other purposes.	$1.00
102-554	H.R. 6129	Oct. 28	4142	Agricultural Credit Improvement Act of 1992	$1.00
102-555	H.R. 6133	Oct. 28	4163	Land Remote Sensing Policy Act of 1992	$1.00
102-556	H.R. 6191	Oct. 28	4181	Telephone Disclosure and Dispute Resolution Act	$1.00
102-557	H.J. Res. 546	Oct. 28	4196	Designating February 4, 1993, and February 3, 1994, as "National Women and Girls in Sports Day".	$1.00
102-558	S. 347	Oct. 28	4198	Defense Production Act Amendments of 1992	$1.00
102-559	S. 474	Oct. 28	4227	Professional and Amateur Sports Protection Act	$1.00
102-560	S. 758	Oct. 28	4230	Patent and Plant Variety Protection Remedy Clarification Act	$1.00
102-561	S. 893	Oct. 28	4233	To amend title 18, United States Code, with respect to the criminal penalties for copyright infringement.	$1,00
102-562	S. 1439	Oct. 28	4234	To authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, Louisiana, and for other purposes.	$1 00
102-563	S. 1623	Oct. 28	4237	Audio Home Recording Act of 1992	$1.00
102-564	S. 2941	Oct. 28	4249	Small Business Research and Development Enhancement Act of 1992	$1.00
102-565	S. 3309	Oct. 28	4265	To amend the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes.	$1.00
102-566	S. 3327	Oct. 28	4269	To amend the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of an acreage allotment or quota for certain commodities, and for other purposes.	$1.00
102-567	H.R. 2130	Oct. 29	4270	National Oceanic and Atmospheric Administration Authorization Act of 1992	$1.50
102-568	H.R. 5008	Oct. 29	4320	Veterans' Benefits Act of 1992	$1 00
102-569	H.R. 5482	Oct. 29	4344	Rehabilitation Act Amendments of 1992	$4.25
102-570	H.R. 5809	Oct. 29	4489	To authorize the Secretary of the Interior to construct and operate an interpretive center for the Ridgefield National Wildlife Refuge in Clark County, Washington.	$1.00
102-571	H.R. 6181	Oct. 29	4491	To amend the Federal Food, Drug, and Cosmetic Act to authorize human drug application, prescription drug establishment, and prescription drug product fees and for other purposes.	$1.00
102-572	S. 1569	Oct. 29	4506	Federal Courts Administration Act of 1992	$1.00
102-573	S. 2481	Oct. 29	4526	Indian Health Amendments of 1992	$2.00
102-574	S. 2679	Oct. 29	4593	Hawaii Tropical Forest Recovery Act	$1.00
102-575	H.R. 429	Oct. 30	4600	Reclamation Projects Authorization and Adjustment Act of 1992	$5.00
102-576	H.R. 2032	Oct. 30	4770	Nez Perce National Historical Park Additions Act of 1991	$1.00
102-577	H.J. Res. 422	Oct. 30	4772	Designating November 1992 as "Neurofibromatosis Awareness Month"	$1.00
102-578	S. 775	Oct. 30	4774	Veterans' Radiation Exposure Amendments of 1992	$1.00
102-579	S. 1671	Oct. 30	4777	Waste Isolation Pilot Plant Land Withdrawal Act	$1.00
102-580	H.R. 6167	Oct. 31	4797	Water Resources Development Act of 1992	$2.25
102-581	H.R. 6168	Oct. 31	4872	Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992.	$1.00
102-582	H.R. 2152	Nov. 2	4900	High Seas Driftnet Fisheries Enforcement Act	$1.00
102-583	H.R. 6187	Nov. 2	4914	International Narcotics Control Act of 1992	$1.00
102-584	S. 2572	Nov. 2	4937	Arkansas-Idaho Exchange Act of 1992	$1.00
102-585	H.R. 5193	Nov. 4	4943	Veterans Health Care Act of 1992	$1.25
102-586	H.R. 5194	Nov. 4	4982	To amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes.	$1.75
102-587	H.R. 5617	Nov. 4	5039	Oceans Act of 1992	$2.00
102-588	H.R 6135	Nov. 4	5107	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993	$1.00
102-589	H.R. 5377	Nov. 10	5133	Cash Management Improvement Act Amendments of 1992	$1.00
102-590	H.R 5400	Nov. 10	5136	Homeless Veterans Comprehensive Service Programs Act of 1992	$1.00

Federal Register

Monday
November 23, 1992

PART III

Environmental Protection Agency

40 CFR Part 374

Citizen Suits Under Section 310 of the Comprehensive Environmental Response, Compensation, and Liability Act; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 374

[FRL-3908-9]

Citizen Suits Under Section 310 of the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule prescribes the manner in which notice of citizen suits is to be provided as required by section 310 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA). This rule prescribes the method for service of notice, contents of the notice, and the timing of notice of CERCLA section 310 citizen suits. EPA takes this action in response to provisions in SARA amendments to CERCLA, which authorize persons to commence citizen suits under CERCLA after providing notice in the manner prescribed by regulation. A separate rule will be published prescribing the manner in which notice of citizen suits is to be provided as required by section 326 of the Emergency Planning and Community Right-To-Know Act (EPCRA or Title III of SARA).

EFFECTIVE DATE: January 22, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia L. Sims, Office of Enforcement, Superfund Division (LE-134S), United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Telephone (202) 260-2860.

SUPPLEMENTARY INFORMATION:

Authority

EPA publishes this rule pursuant to section 310 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9659, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99-499. Sections 310(d) and 310(e) of CERCLA authorize the President to promulgate these regulations. The President has delegated that authority to the Administrator of EPA. See section 6(d) of Executive Order 12580, 3 CFR, 1987 Comp., p. 193, as amended by Executive Order 12777, 3 CFR, 1991 Comp., p. 351.

Statutory Requirements

Section 310 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9659, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99-499, authorizes citizen suits against violators of CERCLA and against the Administrator of EPA or other federal and state officials for failing to perform specified non-discretionary duties. Section 310 of CERCLA requires the persons intending to file an action to provide notice in the manner specified by regulation, sixty (60) days prior to filing the action. The regulations published today prescribe the manner in which notice is to be provided for citizen suits under CERCLA.

Section 310 of CERCLA authorizes any person to commence a civil action on his or her own behalf against (1) any person (including the United States or other governing agency) who is alleged to be in violation of any standard, regulation, condition, requirement, or order which has become effective under CERCLA (including any provision of an agreement under section 120, relating to Federal facilities); or (2) the President or other officer of the United States (including the Administrator of EPA or the Administrator of the Agency on Toxic Substances and Disease Registry) for an alleged failure to perform any act or duty which is not discretionary under CERCLA. For actions against a violator of CERCLA, the plaintiff must provide notice to the United States, the State, and the violator sixty (60) days prior to commencing such action. For actions against an officer of the United States for failing to perform a nondiscretionary duty, the plaintiff must provide notice to the United States sixty (60) days prior to commencing such action.

Section 113(l) of CERCLA provides that in any action filed under CERCLA in a United States court, including actions under section 310, the plaintiff (if not the United States) must provide copies of the complaint to the Attorney General of the United States and the Administrator of EPA.

The Rule

This rule prescribes the manner in which notice is to be provided for civil actions under section 310 of CERCLA. The rule describes the manner in which notice is to be served, contents of the notice, and timing of the notice. Section 310 of CERCLA provides that notice is to be provided to the President, as well as the state and the alleged violator. The President has delegated most authority under CERCLA to several agencies, primarily to the Administrator of EPA. See, Executive Order 12580. The Administrator has delegated some CERCLA authority to the Regional Administrators. Therefore, the rule requires that notice be provided to the head of the agency with delegated responsibility for the provision of CERCLA allegedly violated. The notice must be provided to the Administrator and appropriate Regional Administrator of EPA if EPA has responsibility for the provision of CERCLA allegedly violated. If another agency has responsibility for the provision violated, the notice must be provided to the head of that agency. EPA provides in this rule that the notice include information about the proposed action so that EPA will have a basis to determine whether intervention or other action by the United States is appropriate. Some language changes have been made since publication of the proposed rule. These changes are primarily editorial in nature, intended to clarify rule requirements rather than to alter proposed substantive duties or responsibilities. For convenience, the rule provides a list of addresses that will be used frequently in providing notice of citizen suits. These addresses are subject to change.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, whenever an agency publishes a general notice of

rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities. In such circumstances, a regulatory flexibility analysis is not required. The overall economic impact of this rule on small entities is insignificant because it is a procedural rule only. Accordingly, I hereby certify that this regulation will not have a significant impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

Executive Order 12291

Under Executive Order 12291, the Agency must judge whether a regulation is "major" and thus subject to the requirement to prepare a Regulatory Impact Analysis. These rules are not major because they will not result in an effect on the economy of $100 million or more, will not result in increased costs or prices, will not have significant adverse effects on competition, employment, investment, productivity, and innovation, and will not significantly disrupt domestic or export markets. Therefore, the Agency has not prepared a Regulatory Impact Analysis under the Executive Order.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Paperwork Reduction Act

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Public Comments on Proposed Rule: Responsiveness Summary

The proposed rule was published January 26, 1989 (54 FR 3918) in the **Federal Register**.

Comments concerning the proposed rule for CERCLA section 310 citizen suit notice were received from three commenters:

Commenter 1—United States Department of Energy.

Commenter 2—Edison Electric Institute.

Commenter 3—Atlantic States Legal Foundation.

Comments that do not relate to any particular subpart of the rule are identified as General. Comments relating to specific portions of the rule are organized according to the subpart, section, and paragraph of the rule to which they relate. Each comment contains a summary of the comment and EPA's response. In the following summary, the Comprehensive Environmental Response, Compensation, and Liability Act is abbreviated as CERCLA. Five additional commenters addressed the EPCRA portion of the proposed rule; responses to those comments will be provided in the separate EPCRA final rule.

Responsiveness Summary

Comment #1: (Commenter 1, specific.) The Savannah River Operations Office of the United States Department of Energy commented that the proposed language of § 374.2(a)(1) should be modified to require that notice also be given to the Federal agency owning the facility in those instances where the suit is brought against the private operator or manager, such as a contractor, of a Federal facility.

Response: The language of § 374.2(a)(1) will not be changed to address this point. In suits filed under section 310 of CERCLA, to require notice to the Federal agency owning a facility would place the additional burden of determining the relationship between a contractor/operator and the owner/agency on the citizen providing notice under these rules. The Agency expects that contractor/operators of Federal facilities will notify the appropriate agency where necessary.

Comment #2: (Commenter 2, specific.) Edison Electric Institute ("EEI") proposed that § 374.4 be amended to state expressly that a citizen suit may not be commenced against an owner or operator if the Administrator has commenced and is diligently pursuing an administrative order or civil action against the owner or operator, since CERCLA bars citizen suits under such circumstances.

Response: The language of § 374.4 of the proposed rule tracks the statutory language of section 310(d)(2) of CERCLA, which provides that "No action may be commenced under paragraph (1) of subsection (a) if the President has commenced and is diligently prosecuting an action under this Act, or under the Solid Waste Disposal Act to require compliance with the standard, regulation, condition, requirement, or order concerned. . . ."

Comment #3: (Commenter 3, specific.) The Atlantic States Legal Foundation ("Atlantic") commented that for the sake of uniformity with citizen suit provisions for other environmental statutes and to avoid unnecessary costs to litigants, proposed § 374.2(a) should require notice to be served by certified mail rather than registered mail.

Response: Section 374.2(a) and other sections where this language is repeated have been changed. The new language requires that notices to file citizen suits "shall be served by certified mail, return receipt requested."

Comment #4: (Commenter 3, specific.) Atlantic also commented that the proposed rule required that notices be served by registered mail to EPA, the State, and the violator. Atlantic again urged that for the sake of consistency with the citizen suit notice rules for other statutes and to avoid unnecessary expense to litigants, it should be clarified that registered (or certified) mail is required only to the violator and that the other recipients need only receive copies by ordinary mail.

Response: Section 374.2(c) provides that notice given in accordance with the rule will be considered to have been served on the date of receipt. If notice or copy of notice is required to be served on more than one entity, notice shall be considered to have been served on the date of receipt by the last entity served. Where service is accomplished by certified mail, the date of receipt is the date noted on the return receipt card. Since section 310(d)(1) of CERCLA requires that notice be given to each entity listed, and the sixty day waiting period to file begins upon receipt of notice, the Agency believes it is important for those bringing citizen suits to have a record of the date of receipt for each entity and proof that notice was served as prescribed by the statute. Therefore, the language in § 374.2 is modified to clarify that the use of certified mail will be required for all notices of intent to file citizen suits under this rule.

Comment #5: (Commenter 3, specific.) Atlantic further commented that instead of using the date on the return receipt card as the date of receipt, the proposed rules should use the date of the postmark of the notice.

Response: See response to Comment #4.

Comment #6: (Commenter 3, general.) Atlantic commented that State and Federal Agencies receiving notices or copies of notices under the proposed rules, should be required to send a counternotice to the sender of the original notice, informing whether any administrative action or civil enforcement proceeding is pending regarding the violation in question. Atlantic urged that such a requirement is merely an extension of the purpose of providing notice in that the purpose of

such notice is generally to review the violation in question and to determine whether the entity involved will take action against the violator.

Response: For enforcement reasons, EPA generally does not provide information on contemplated actions. The Agency anticipates that it will not be difficult for citizens wishing to file suit under these statutory provisions to ascertain whether any actions are pending that would prevent the commencement of a citizen suit. The rule therefore will not include a requirement that the affected agency respond to every notice filed under these rules by providing a counter notice to the sender of the original notice.

List of Subjects in 40 CFR Part 374

Environmental protection, Hazardous substances, Hazardous wastes, Natural resources, Superfund.

Dated: October 14, 1992.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended by adding part 374 to read as follows:

PART 374—PRIOR NOTICE OF CITIZEN SUITS

Sec.

Authority: 42 U.S.C. 9659.

§ 374.1 Purpose.

Section 310 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), authorizes civil actions by any person to enforce the Act. These civil actions may be brought against any person (including the United States, and any other governmental instrumentality or agency, to the extent permitted by the Eleventh Amendment to the Constitution), that is alleged to become effective pursuant to the Act (including any provision of an agreement under section 120 of the Act, relating to Federal facilities); and against the President or any other officer of the United States (including the Administrator of the Environmental Protection Agency and the Administrator of the Agency for Toxic Substances and Disease Registry) where there is alleged a failure to perform any act or duty under this Act, which is not discretionary with the President or such other officer, including an act or duty under section 120 of the Act (relating to Federal facilities), but not including any act or duty under section 311 of the Act (relating to research, development, and demonstration). These civil actions under section 310 of the Act are to be filed in accordance with the rules of the district court in which the action is instituted. The purpose of this part is to prescribe procedures governing the notice requirements of subsections (d) and (e) of section 310 of the Act as a prerequisite to the commencement of such actions.

§ 374.2 Service of notice.

(a) *Violation of standard, regulation, condition, requirement, or order.* Notice of intent to file suit under subsection 310(a)(1) of the Act shall be served by personal service upon, or by certified mail, return receipt requested, addressed to the alleged violator of any standard, regulation, condition, requirement, or order which has become effective pursuant to this Act in the following manner:

(1) If the alleged violator is a private individual or corporation, notice shall be served by personal service upon, or by certified mail, return receipt requested, addressed to the person alleged to be in violation. If the alleged violator is a corporation, a copy of the notice shall also be served by personal service upon or by certified mail, return receipt requested, addressed to the registered agent, if any, of that corporation in the State in which the violation is alleged to have occurred. A copy of the notice shall be served by personal service upon or by certified mail, return receipt requested, addressed to the United States Attorney General; to the Attorney General of the State in which the violation is alleged to have occurred; and to the head of the Federal agency with delegated responsibility for the CERCLA provision allegedly violated, pursuant to Executive Order 12580, 3 CFR, 1987 Comp., p. 193, as amended by Executive Order 12777, 3 CFR, 1991 Comp., p. 351. If the Environmental Protection Agency has responsibility for the CERCLA provision allegedly violated, then a copy of the notice shall be served by personal service upon or by certified mail, return receipt requested, addressed to the Administrator of the Environmental Protection Agency, and to the Regional Administrator of the Environmental Protection Agency for the Region in which the violation is alleged to have occurred. A list of addresses that may be useful in providing notice of citizen suits is provided at § 374.6. Note that these addresses are subject to change and must be verified prior to use.

(2) If the alleged violator is a State or local agency, notice shall be served by personal service upon or by certified mail, return receipt requested, addressed to the head of that agency. A copy of the notice shall be served by personal service upon or by certified mail, return receipt requested, addressed to the United States Attorney General; to the Attorney General of the State in which the violation is alleged to have occurred; and to the head of the Federal agency with delegated responsibility, pursuant to Executive Order 12580, for the CERCLA provision allegedly violated. If the Environmental Protection Agency has the delegated responsibility for the CERCLA provision allegedly violated, then a copy of the notice shall be served by personal service upon or by certified mail, return receipt requested, addressed to the Administrator of the Environmental Protection Agency, and to the Regional Administrator of the Environmental Protection Agency for the Region in which the violation is alleged to have occurred. A list of addresses that may be useful in providing notice of citizen suits is provided at § 374.6. Note that these addresses are subject to change and must be verified prior to use.

(3) If the alleged violator is a Federal agency, notice shall be served by personal service upon or by certified mail, return receipt requested, addressed to the head of the agency. A copy of the notice shall be served by personal service upon or by certified mail, return receipt requested, addressed to the United States Attorney General; to the Attorney General of the State in which the violation is alleged to have occurred; and to the head of the Federal agency with delegated responsibility, pursuant to Executive Order 12580, for the CERCLA provision allegedly violated. If the Environmental Protection Agency has the delegated responsibility for the CERCLA provision allegedly violated, then a copy of the notice shall be served by personal service upon or by certified mail, return receipt requested, addressed to the Administrator of the Environmental Protection Agency, and to the Regional Administrator of the Environmental Protection Agency for the Region in which the violation is alleged to have occurred. A list of addresses that may be useful in providing notice of citizen suits is provided at § 374.6. These addresses are subject to change and must be verified prior to use.

(b) *Failure to act.* Service of notice of intent to file suit under subsection

310(a)(2) of the Act shall be accomplished by personal service upon or by certified mail, return receipt requested, addressed to the United States Attorney General and to the head of the agency of the United States (including the Administrator of the Environmental Protection Agency or the Administrator of the Agency for Toxic Substances and Disease Registry), who is alleged to have failed to perform an act or duty which is not discretionary.

(c) *Date of service.* Notice given in accordance with the provisions of this part shall be considered to have been served on the date of receipt. If notice or copy of notice is required to be served on more than one entity, notice shall be considered to have been served on the date of receipt by the last entity served. If service was accomplished by mail, the date of receipt will be considered to be the date noted on the return receipt card.

§ 374.3 Contents of notice.

(a) *Violation of standard, regulation, condition, requirement, or order.* Notice regarding an alleged violation of a standard, regulation, condition, requirement, or order (including any provision of an agreement under section 120 of the Act, relating to Federal facilities) which has become effective under this Act shall include sufficient information to allow the recipient to identify the specific standard, regulation, condition, requirement, or order (including any provision of an agreement under section 120 of the Act, relating to Federal facilities) which has allegedly been violated; the activity or failure to act alleged to constitute a violation; the name and address of the site and facility alleged to be in violation, if known; the person or persons responsible for the alleged violation; the date or dates of the violation; and the full name, address, and telephone number of the person giving notice.

(b) *Failure to act.* Notice regarding an alleged failure of the President or other officer of the United States to perform an act or duty which is not discretionary under the Act shall identify the provisions of the Act which require such act or create such duty; shall describe with reasonable specificity the action taken or not taken by the President or other officer that is claimed to constitute a failure to perform the act or duty; shall identify the Agency and name and title of the officers allegedly failing to perform the act or duty; and shall state the full name, address, and telephone number of the person giving the notice.

(c) *Identification of counsel.* All notices shall statement the name, address, and telephone number of the legal counsel, if any, representing the person giving the notice.

§ 374.4 Timing of notice.

(a) *Violation of standard, regulation, condition, requirement, or order.* No action may be commenced under subsection 310(a)(1) of the Act before sixty (60) days after the plaintiff has served notice of the violation as specified in § 374.2(c). No action may be commenced under subsection 310(a)(1) of the Act if the President or his or her delegatee has commenced and is diligently prosecuting an action under the Act or under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 et seq., to require compliance with the CERCLA standard, regulation, condition, requirement, or order concerned (including any provision of an agreement under section 120 of the Act).

(b) *Failure to act.* No action may be commenced under subsection 310(a)(2) of the Act before sixty (60) days after the plaintiff has given notice of the failure to act as specified in this part.

§ 374.5 Copy of complaint.

At the time of filing an action under this Act, the plaintiff must provide a copy of the complaint to the Attorney General of the United States and to the Administrator of the Environmental Protection Agency.

§ 374.6 Addresses.

Administrator, U.S. Environmental Protection Agency, 401 M Street, SW. (A-100), Washington, DC 20460.

Regional Administrator, Region I, U.S. Environmental Protection Agency, John F. Kennedy Building, room 2203, Boston, MA 02203.

Regional Administrator, Region II, U.S. Environmental Protection Agency, 26 Federal Plaza, room 930, New York, NY 10278.

Regional Administrator, Region III, U.S. Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA 19107.

Regional Administrator, Region IV, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30365.

Regional Administrator, Region V, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604.

Regional Administrator, Region VI, U.S. Environmental Protection Agency, 1445 Ross Avenue, suite 1200, Dallas, TX 75202-2733.

Regional Administrator, Region VII, U.S. Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, KS 66101.

Regional Administrator, Region VIII, U.S. Environmental Protection Agency, 999 18th Street, suite 500, Denver, CO 80202-2405.

Regional Administrator, Region IX, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

Regional Administrator, Region X, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

Administrator, Agency for Toxic Substances and Disease Registry, Center for Disease Control, 200 Independence Avenue, SW., Washington, DC 20201.

Attorney General, United States Department of Justice, Tenth and Pennsylvania Avenues, NW., Washington, DC 20530.

[FR Doc. 92-27702 Filed 11-20-92; 8:45 am]
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Reader Aids

Federal Register

Vol. 57, No. 226

Monday, November 23, 1992

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-3187
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	512-1557

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3447
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

49373-49630.....2
49631-52576.....3
52577-52718.....4
52719-53014.....5
53015-53210.....6
53211-53430.....9
53431-53536.....10
53537-53846.....12
53847-53980.....13
53981-54164.....16
54165-54284.....17
54285-54484.....18
54485-54676.....19
54677-54894.....20
54895-55042.....23

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6445 (See USTR notice of November 17, 1992).....54268
6500.....49629
6501.....52579
6502.....52581
6503.....53209
6504.....53537
6505.....53539
6506.....53975
6507.....53977

Executive Orders:
5327 (See correction of November 6, 1992).....53191
12543 (See DOT final rule of October 30, 1992).....54176
12544 (See DOT final rule of October 30, 1992).....54176
12735 (Continued by Notice of November 11, 1992).....53980
12820.....53429
11609 (Amended by EO 12822).....54285
12821.....54289
12822.....54285

Administrative Orders:
Presidential Determinations:
No. 92-47 of September 24, 1992.....52577
Memorandums:
October 22, 1992.....54895
Notices:
November 11, 1992.....53980

5 CFR

317.....54677
842.....54678
843.....54678
890.....53981
2635.....52583

Proposed Rules:
532.....53607

7 CFR

16.....53015
300.....54485
301.....49373, 49374, 54165, 54166, 54492
319.....54485
401.....54681
406.....53211, 54682
425.....52583
729.....49631
906.....54897
907.....54169, 54898
910.....53431, 54900
927.....54903
929.....53431
931.....53431
948.....53015
980.....53015
989.....53017
997.....54905
1001.....49633
1004.....49633
1098.....53433
1124.....49633
1205.....53434
1421.....49635
1427.....49635
1446.....49631
1945.....54172

Proposed Rules:
17.....53607
52.....52595
100.....54727
340.....53036
907.....49655, 53043
908.....49655
927.....54728
1006.....54947
1011.....54948
1012.....54947
1013.....54947
1755.....53043, 53044
1980.....49428

3401.....52688

8 CFR

245.....49376

9 CFR

51.....49375
77.....49376
78.....49377
160.....54906
161.....54906
162.....54906
320.....53981
381.....53981

Proposed Rules:
50.....49429
201.....54104
203.....54104
316.....52596
317.....52596
319.....52596
381.....52596

10 CFR

50.....53191

LIST OF PUBLIC LAWS

Note: The list of Public Laws for the second session of the 102d Congress has been completed and will resume when bills are enacted into law during the first session of the 103rd Congress, which convenes on January 5, 1993.

A cumulative list of Public Laws for the second session of the 102d Congress is in Part II of this issue of the **Federal Register**.

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-017-00001-9)	$13.00	Jan. 1, 1992
3 (1991 Compilation and Parts 100 and 101)	(869-017-00002-7)	17.00	[1] Jan. 1, 1992
4	(869-017-00003-5)	16.00	Jan. 1, 1992
5 Parts:			
1-699	(869-017-00004-3)	18.00	Jan. 1, 1992
700-1199	(869-017-00005-1)	14.00	Jan. 1, 1992
1200-End, 6 (6 Reserved)	(869-017-00006-0)	19.00	Jan. 1, 1992
7 Parts:			
0-26	(869-017-00007-8)	17.00	Jan. 1, 1992
27-45	(869-017-00008-6)	12.00	Jan. 1, 1992
46-51	(869-017-00009-4)	18.00	Jan. 1, 1992
52	(869-017-00010-8)	24.00	Jan. 1, 1992
53-209	(869-017-00011-6)	19.00	Jan. 1, 1992
210-299	(869-017-00012-4)	26.00	Jan. 1, 1992
300-399	(869-017-00013-2)	13.00	Jan. 1, 1992
400-699	(869-017-00014-1)	15.00	Jan. 1, 1992
700-899	(869-017-00015-9)	18.00	Jan. 1, 1992
900-999	(869-017-00016-7)	29.00	Jan. 1, 1992
1000-1059	(869-017-00017-5)	17.00	Jan. 1, 1992
1060-1119	(869-017-00018-3)	13.00	Jan. 1, 1992
1120-1199	(869-017-00019-1)	9.50	Jan. 1, 1992
1200-1499	(869-017-00020-5)	22.00	Jan. 1, 1992
1500-1899	(869-017-00021-3)	15.00	Jan. 1, 1992
1900-1939	(869-017-00022-1)	11.00	Jan. 1, 1992
1940-1949	(869-017-00023-0)	23.00	Jan. 1, 1992
1950-1999	(869-017-00024-8)	26.00	Jan. 1, 1992
2000-End	(869-017-00025-6)	11.00	Jan. 1, 1992
8	(869-017-00026-4)	17.00	Jan. 1, 1992
9 Parts:			
1-199	(869-017-00027-2)	23.00	Jan. 1, 1992
200-End	(869-017-00028-1)	18.00	Jan. 1, 1992
10 Parts:			
0-50	(869-017-00029-9)	25 00	Jan. 1, 1992
51-199	(869-017-00030-2)	18.00	Jan. 1, 1992
200-399	(869-017-00031-1)	13.00	[4] Jan. 1, 1987
400-499	(869-017-00032-9)	20.00	Jan. 1, 1992
500-End	(869-017-00033-7)	28.00	Jan. 1, 1992
11	(869-017-00034-5)	12.00	Jan. 1, 1992
12 Parts:			
1-199	(869-017-00035-3)	13.00	Jan. 1, 1992
200-219	(869-017-00036-1)	13.00	Jan. 1, 1992
220-299	(869-017-00037-0)	22.00	Jan. 1, 1992
300-499	(869-017-00038-8)	18.00	Jan. 1, 1992
500-599	(869-017-00039-6)	17.00	Jan. 1, 1992
600-End	(869-017-00040-0)	19.00	Jan. 1, 1992
13	(869-017-00041-8)	25 00	Jan. 1, 1992
14 Parts:			
1-59	(869-017-00042-6)	25 00	Jan. 1, 1992
60-139	(869-017-00043-4)	22.00	Jan. 1, 1992
140-199	(869-017-00044-2)	11.00	Jan. 1, 1992
200-1199	(869-017-00045-1)	20.00	Jan. 1, 1992
1200-End	(869-017-00046-9)	14.00	Jan. 1, 1992
15 Parts:			
0-299	(869-017-00047-7)	13.00	Jan. 1, 1992
300-799	(869-017-00048-5)	21.00	Jan. 1, 1992
800-End	(869-017-00049-3)	17.00	Jan. 1, 1992
16 Parts:			
0-149	(869-017-00050-7)	6.00	Jan. 1, 1992
150-999	(869-017-00051-5)	14.00	Jan. 1, 1992
1000-End	(869-017-00052-3)	20.00	Jan. 1, 1992
17 Parts:			
1-199	(869-017-00054-0)	15.00	Apr. 1, 1992
200-239	(869-017-00055-8)	17.00	Apr. 1, 1992
240-End	(869-017-00056-6)	24.00	Apr. 1, 1992
18 Parts:			
1-149	(869-017-00057-4)	16.00	Apr. 1, 1992
150-279	(869-017-00058-2)	19.00	Apr. 1, 1992
280-399	(869-017-00059-1)	14.00	Apr. 1, 1992
400-End	(869-017-00060-4)	9.50	Apr. 1, 1992
19 Parts:			
1-199	(869-017-00061-2)	28.00	Apr. 1, 1992
200-End	(869-017-00062-1)	9.50	Apr. 1, 1992
20 Parts:			
1-399	(869-017-00063-9)	16.00	Apr. 1, 1992
400-499	(869-017-00064-7)	31.00	Apr. 1, 1992
500-End	(869-017-00065-5)	21.00	Apr. 1, 1992
21 Parts:			
1-99	(869-017-00066-3)	13.00	Apr. 1, 1992
100-169	(869-017-00067-1)	14.00	Apr. 1, 1992
170-199	(869-017-00068-0)	18.00	Apr. 1, 1992
200-299	(869-017-00069-8)	5.50	Apr. 1, 1992
300-499	(869-017-00070-1)	29.00	Apr. 1, 1992
500-599	(869-017-00071-0)	21.00	Apr. 1, 1992
600-799	(869-017-00072-8)	7.00	Apr. 1, 1992
800-1299	(869-017-00073-6)	18.00	Apr. 1, 1992
1300-End	(869-017-00074-4)	9.00	Apr. 1, 1992
22 Parts:			
1-299	(869-017-00075-2)	26.00	Apr. 1, 1992
300-End	(869-017-00076-1)	19.00	Apr. 1, 1992
23	(869-017-00077-9)	18.00	Apr. 1, 1992
24 Parts:			
0-199	(869-017-00078-7)	34.00	Apr. 1, 1992
200-499	(869-017-00079-5)	32.00	Apr. 1, 1992
500-699	(869-017-00080-9)	13.00	Apr. 1, 1992
700-1699	(869-017-00081-7)	34.00	Apr. 1, 1992
1700-End	(869-017-00082-5)	13.00	Apr. 1, 1992
25	(869-017-00083-3)	25.00	Apr. 1, 1992
26 Parts:			
§§ 1.0-1-1.60	(869-017-00084-1)	17.00	Apr. 1, 1992
§§ 1.61-1.169	(869-017-00085-0)	33.00	Apr. 1, 1992
§§ 1.170-1.300	(869-017-00086-8)	19.00	Apr. 1, 1992
§§ 1.301-1.400	(869-017-00087-6)	17.00	Apr. 1, 1992
§§ 1.401-1.500	(869-017-00088-4)	38.00	Apr. 1, 1992
§§ 1.501-1.640	(869-017-00089-2)	19.00	Apr. 1, 1992
§§ 1.641-1.850	(869-017-00090-6)	19.00	Apr. 1, 1992
§§ 1.851-1.907	(869-017-00091-4)	23.00	Apr. 1, 1992
§§ 1.908-1.1000	(869-017-00092-2)	26.00	Apr. 1, 1992
§§ 1.1001-1.1400	(869-017-00093-1)	19.00	Apr. 1, 1992
§§ 1.1401-End	(869-017-00094-9)	26.00	Apr. 1, 1992
2-29	(869-017-00095-7)	22.00	Apr. 1, 1992
30-39	(869-017-00096-5)	15.00	Apr. 1, 1992
40-49	(869-017-00097-3)	12.00	Apr. 1, 1992
50-299	(869-017-00098-1)	15.00	Apr. 1, 1992
300-499	(869-017-00099-0)	20.00	Apr. 1, 1992
500-599	(869-017-00100-7)	6.00	[5] Apr. 1, 1990

Title	Stock Number	Price	Revision Date
600-End	(869-017-00101-5)	6.50	Apr. 1, 1992
27 Parts:			
1-199	(869-017-00102-3)	34.00	Apr. 1, 1992
200-End	(869-017-00103-1)	11.00	[6]Apr. 1, 1991
28	(869-017-00104-0)	37.00	July 1, 1992
29 Parts:			
0-99	(869-017-00105-8)	19.00	July 1, 1992
100-499	(869-013-00106-6)	9.00	July 1, 1992
500-899	(869-013-00107-9)	27.00	July 1, 1991
900-1899	(869-017-00108-2)	16.00	July 1, 1992
*1900-1910 (§§ 1901.1 to 1910.999)	(869-017-00109-1)	29.00	July 1, 1992
1910 (§§ 1910.1000 to end)	(869-017-00110-4)	16.00	July 1, 1992
1911-1925	(869-017-00111-2)	9.00	[7] July 1, 1989
1926	(869-017-00112-1)	14.00	July 1, 1992
1927-End	(869-017-00113-9)	30.00	July 1, 1992
30 Parts:			
1-199	(869-013-00114-1)	22.00	July 1, 1991
200-699	(869-017-00115-5)	19.00	July 1, 1992
700-End	(869-017-00116-3)	25.00	July 1, 1992
31 Parts:			
0-199	(869-017-00117-1)	17.00	July 1, 1992
200-End	(869-017-00118-0)	25.00	July 1, 1992
32 Parts:			
1-39, Vol. I		15.00	[2] July 1, 1984
1-39, Vol. II		19.00	[2] July 1, 1984
1-39, Vol. III		18.00	[2] July 1, 1984
1-189	(869-017-00119-8)	30.00	July 1, 1992
190-399	(869-017-00120-1)	33.00	July 1, 1992
400-629	(869-017-00121-0)	29.00	July 1, 1992
630-699	(869-017-00122-8)	14.00	[8] July 1, 1991
700-799	(869-017-00123-6)	20.00	July 1, 1992
800-End	(869-017-00124-4)	20.00	July 1, 1992
33 Parts:			
1-124	(869-017-00125-2)	18.00	July 1, 1992
125-199	(869-017-00126-1)	21.00	July 1, 1992
200-End	(869-017-00127-9)	23.00	July 1, 1992
34 Parts:			
1-299	(869-017-00128-7)	27.00	July 1, 1992
300-399	(869-017-00129-5)	19.00	July 1, 1992
400-End	(869-013-00130-3)	26.00	July 1, 1991
35	(869-017-00131-7)	12.00	July 1, 1992
36 Parts:			
1-199	(869-017-00132-5)	15.00	July 1, 1992
200-End	(869-017-00133-3)	32.00	July 1, 1992
*37	(869-017-00134-1)	17.00	July 1, 1992
38 Parts:			
0-17	(869-013-00135-4)	24.00	July 1, 1991
18-End	(869-013-00136-2)	22.00	July 1, 1991
39	(869-017-00137-6)	16.00	July 1, 1992
40 Parts:			
1-51	(869-017-00138-4)	31.00	July 1, 1992
52	(869-013-00139-7)	28.00	July 1, 1991
53-60	(869-017-00140-6)	36.00	July 1, 1992
61-80	(869-017-00141-4)	16.00	July 1, 1992
81-85	(869-013-00142-7)	11.00	July 1, 1991
86-99	(869-017-00143-1)	33.00	July 1, 1992
100-149	(869-013-00144-3)	30.00	July 1, 1991
150-189	(869-017-00145-7)	21.00	July 1, 1992
190-259	(869-017-00146-5)	16.00	July 1, 1992
260-299	(869-013-00147-8)	31.00	July 1, 1991
300-399	(869-017-00148-1)	15.00	July 1, 1992
400-424	(869-017-00149-0)	26.00	July 1, 1992
*425-699	(869-017-00150-3)	26.00	July 1, 1992
700-789	(869-013-00151-6)	20.00	July 1, 1991
790-End	(869-017-00152-0)	25.00	July 1, 1992

Title	Stock Number	Price	Revision Date
41 Chapters:			
1, 1-1 to 1-10		13.00	[3] July 1, 1984
1, 1-11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3-6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10-17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1-5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6-19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20-52		13.00	[3] July 1, 1984
19-100		13.00	[3] July 1, 1984
1-100	(869-017-00153-8)	9.50	July 1, 1992
101	(869-013-00154-1)	22.00	July 1, 1991
102-200	(869-017-00155-4)	11.00	[8] July 1, 1991
201-End	(869-017-00156-2)	11.00	July 1, 1992
42 Parts:			
1-60	(869-013-00157-5)	17.00	Oct. 1, 1991
61-399	(869-013-00158-3)	5.50	Oct. 1, 1991
400-429	(869-013-00159-1)	21.00	Oct. 1, 1991
430-End	(869-013-00160-5)	26.00	Oct. 1, 1991
43 Parts:			
1-999	(869-013-00161-3)	20.00	Oct. 1, 1991
1000-3999	(869-013-00162-1)	26.00	Oct. 1, 1991
4000-End	(869-013-00163-0)	12.00	Oct. 1, 1991
44	(869-013-00164-8)	22.00	Oct. 1, 1991
45 Parts:			
1-199	(869-013-00165-6)	18.00	Oct. 1, 1991
200-499	(869-013-00166-4)	12.00	Oct. 1, 1991
500-1199	(869-013-00167-2)	26.00	Oct. 1, 1991
1200-End	(869-013-00168-1)	19.00	Oct. 1, 1991
46 Parts:			
1-40	(869-013-00169-9)	15.00	Oct. 1, 1991
41-69	(869-013-00170-2)	14.00	Oct. 1, 1991
70-89	(869-013-00171-1)	7.00	Oct. 1, 1991
90-139	(869-013-00172-9)	12.00	Oct. 1, 1991
140-155	(869-013-00173-7)	10.00	Oct. 1, 1991
156-165	(869-013-00174-5)	14.00	Oct. 1, 1991
166-199	(869-013-00175-3)	14.00	Oct. 1, 1991
200-499	(869-013-00176-1)	20.00	Oct. 1, 1991
500-End	(869-013-00177-0)	11.00	Oct. 1, 1991
47 Parts:			
0-19	(869-013-00178-8)	19.00	Oct. 1, 1991
20-39	(869-013-00179-6)	19.00	Oct. 1, 1991
40-69	(869-013-00180-0)	10.00	Oct. 1, 1991
70-79	(869-013-00181-8)	18.00	Oct. 1, 1991
80-End	(869-013-00182-6)	20.00	Oct. 1, 1991
48 Chapters:			
1 (Parts 1-51)	(869-013-00183-4)	31.00	Oct. 1, 1991
1 (Parts 52-99)	(869-013-00184-2)	19.00	Oct. 1, 1991
2 (Parts 201-251)	(869-013-00185-1)	13.00	Dec. 31, 1991
2 (Parts 252-299)	(869-013-00186-9)	10.00	Dec. 31, 1991
3-6	(869-013-00187-7)	19.00	Oct. 1, 1991
7-14	(869-013-00188-5)	26.00	Oct. 1, 1991
15-End	(869-013-00189-3)	30.00	Oct. 1, 1991
49 Parts:			
1-99	(869-013-00190-7)	20.00	Oct. 1, 1991
100-177	(869-013-00191-5)	23.00	Dec. 31, 1991
178-199	(869-013-00192-3)	17.00	Dec. 31, 1991
200-399	(869-013-00193-1)	22.00	Oct. 1, 1991
400-999	(869-013-00194-0)	27.00	Oct. 1, 1991
1000-1199	(869-013-00195-8)	17.00	Oct. 1, 1991
1200-End	(869-013-00196-6)	19.00	Oct. 1, 1991
50 Parts:			
1-199	(869-013-00197-4)	21.00	Oct. 1, 1991
200-599	(869-013-00198-2)	17.00	Oct. 1, 1991
600-End	(869-013-00199-1)	17.00	Oct. 1, 1991
CFR Index and Findings Aids	(869-017-00053-1)	31.00	Jan. 1, 1992

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1991. The CFR volume issued January 1, 1987, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

[6] No amendments to this volume were promulgated during the period Apr. 1, 1991 to Mar. 30, 1992. The CFR volume issued April 1, 1991, should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1992. The CFR volume issued July 1, 1989, should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1992. The CFR volume issued July 1, 1991, should be retained.